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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA v. CARL KRAUCH ET AL. (CASE VI)

AUGUST 14, 1947-JULY 30, 1948

Roll 14

Transcript Volumes (English Version)

Volumes 38-40, p. 13,490-14,546

May 5-June 1, 1948



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INTRODUCTION

On the 113 rolls of this microfilm publication are reproduced the records of Case VI, *United States of America v. Carl Krauch et al.* (I. G. Farben Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal (IMT) held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs and statements, and defendants' final pleas as well as prosecution and defense exhibits and document books in one language or the other. Also included are minute books, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 43 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. Prosecution statements and briefs are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. Unbound prosecution exhibits, numbered 1-2270 and 2300-2354, are essentially those documents from various Nuernberg record series, particularly the NI (Nuernberg Industrialist) Series, and other sources offered in evidence by the prosecution in this case. Defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically, along with two groups of exhibits submitted in the general interest of all defendants. Both prosecution and defense document books consist of full or partial translations of exhibits into English. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

Minute books, in two bound volumes, summarize the transcripts. The official court file, in nine bound volumes, includes the progress docket, the indictment, and amended indictment and the service thereof; applications for and appointments of defense counsel and defense witnesses and prosecution comments thereto; defendants' application for documents; motions and reports; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Defendants' clemency petitions, in three bound volumes, were directed to the military governor, the Judge Advocate General, and the U.S. District Court for the District of Columbia. The finding aids summarize transcripts, exhibits, and the official court file.

Case VI was heard by U.S. Military Tribunal VI from August 14, 1947, to July 30, 1948. Along with records of other Nuernberg

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

and Far East war crimes trials, the records of this case are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The I. G. Farben Case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the IMT against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943; Executive Order 9547 of May 2, 1945; the London Agreement of August 8, 1945; the Berlin Protocol of October 6, 1945; and the IMT Charter.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. Procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the IMT and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

Formation of the I. G. Farben Combine was a stage in the evolution of the German chemical industry, which for many years led the world in the development, production, and marketing of organic dyestuffs, pharmaceuticals, and synthetic chemicals. To control the excesses of competition, six of the largest chemical firms, including the Badische Anilin & Soda Fabrik, combined to form the Interessengemeinschaft (Combine of Interests, or Trust) of the German Dyestuffs Industry in 1904 and agreed to pool technological and financial resources and markets. The two remaining chemical firms of note entered the combine in 1916. In 1925 the Badische Anilin & Soda Fabrik, largest of the firms and already the majority shareholder in two of the other seven companies, led in reorganizing the industry to meet the changed circumstances of competition in the post-World War markets by changing its name to the I. G. Farbenindustrie Aktiengesellschaft, moving its home office from Ludwigshafen to Frankfurt, and merging with the remaining five firms.

Farben maintained its influence over both the domestic and foreign markets for chemical products. In the first instance the German explosives industry, dependent on Farben for synthetically produced nitrates, soon became subsidiaries of Farben. Of particular interest to the prosecution in this case were the various agreements Farben made with American companies for the exchange of information and patents and the licensing of chemical discoveries for foreign production. Among the trading companies organized to facilitate these agreements was the General Anilin and Film Corp., which specialized in photographic processes. The prosecution charged that Farben used these connections to retard the "Arsenal of Democracy" by passing on information received to the German Government and providing nothing in return, contrary to the spirit and letter of the agreements.

Farben was governed by an Aufsichtsrat (Supervisory Board of Directors) and a Vorstand (Managing Board of Directors). The Aufsichtsrat, responsible for the general direction of the firm, was chaired by defendant Krauch from 1940. The Vorstand actually controlled the day-to-day business and operations of Farben. Defendant Schmitz became chairman of the Vorstand in 1935, and 18 of the other 22 original defendants were members of the Vorstand and its component committees.

Transcripts of the I. G. Farben Case include the indictment of the following 24 persons:

Otto Ambros: Member of the Vorstand of Farben; Chief of Chemical Warfare Committee of the Ministry of Armaments and War Production; production chief for Buna and poison gas; manager of Auschwitz, Schkopau, Ludwigshafen, Oppau, Gendorf, Dyhernfurth, and Falkenhagen plants; and Wehrwirtschaftsfuehrer.

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Max Brueggemann: Member and Secretary of the Vorstand of Farben; member of the legal committee; Deputy Plant Leader of the Leverkusen Plant; Deputy Chief of the Sales Combine for Pharmaceuticals; and director of the legal, patent, and personnel departments of the Works Combine, Lower Rhine.

Ernst Buerger: Member of the Vorstand of Farben; Chief of Works Combine, Central Germany; Plant Leader at the Bitterfeld and Wolfen-Farben plants; and production chief for light metals, dyestuffs, organic intermediates, plastics, and nitrogen at these plants.

Heinrich Bueteffisch: Member of the Vorstand of Farben; manager of Leuna plants; production chief for gasoline, methanol, and chlorine electrolysis production at Auschwitz and Moosbierbaum; Wehrwirtschaftsfuehrer; member of the Himmler Freundeskreis (circle of friends of Himmler); and SS Obersturmbannfuehrer (Lieutenant Colonel).

Walter Duerrfeld: Director and construction manager of the Auschwitz plant of Farben, director and construction manager of the Monowitz Concentration Camp, and Chief Engineer at the Leuna plant.

Fritz Gajewski: Member of the Central Committee of the Vorstand of Farben, Chief of Sparte III (Division III) in charge of production of photographic materials and artificial fibers, manager of "Agfa" plants, and Wehrwirtschaftsfuehrer.

Heinrich Gattineau: Chief of the Political-Economic Policy Department, "WIPO," of Farben's Berlin N.W. 7 office; member of Southeast Europe Committee; and director of A.G. Dynamit Nobel, Pressburg, Czechoslovakia.

Paul Haeffliger: Member of the Vorstand of Farben; member of the Commercial Committee; and Chief, Metals Departments, Sales Combine for Chemicals.

Erich von der Heyde: Member of the Political-Economic Policy Department of Farben's Berlin N.W. 7 office, Deputy to the Chief of Intelligence Agents, SS Hauptsturmfuehrer, and member of the WI-RUE-AMT (Military Economics and Armaments Office) of the Oberkommando der Wehrmacht (OKW) (High Command of the Armed Forces).

Heinrich Hoerlein: Member of the Central Committee of the Vorstand of Farben; chief of chemical research and development of vaccines, sera, pharmaceuticals, and poison gas; and manager of the Elberfeld Plant.

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Max Ilgner: Member of the Vorstand of Farben; Chief of Farben's Berlin N.W. 7 office directing intelligence, espionage, and propaganda activities; member of the Commercial Committee; and Wehrwirtschaftsfuehrer.

Friedrich Jaehne: Member of the Vorstand of Farben; chief engineer in charge of construction and physical plant development; Chairman of the Engineering Committee; and Deputy Chief, Works Combine, Main Valley.

August von Knieriem: Member of the Central Committee of the Vorstand of Farben; Chief Counsel of Farben; and Chairman, Legal and Patent Committees.

Carl Krauch: Chairman of the Aufsichtsrat of Farben and Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung (General Plenipotentiary for Special Questions of Chemical Production) on Goering's staff in the Office of the 4-Year Plan.

Hans Kuehne: Member of the Vorstand of Farben; Chief of the Works Combine, Lower Rhine; Plant Leader at Leverkusen, Elberfeld, Uerdingen, and Dormagen plants; production chief for inorganics, organic intermediates, dyestuffs, and pharmaceuticals at these plants; and Chief of the Inorganics Committee.

Hans Kugler: Member of the Commercial Committee of Farben; Chief of the Sales Department Dyestuffs for Hungary, Rumania, Yugoslavia, Greece, Bulgaria, Turkey, Czechoslovakia, and Austria; and Public Commissar for the Falkenau and Aussig plants in Czechoslovakia.

Carl Lautenschlaeger: Member of the Vorstand of Farben; Chief of Works Combine, Main Valley; Plant Leader at the Hoechst, Griesheim, Mainkur, Gersthofen, Offenbach, Eystrup, Marburg, and Neuhausen plants; and production chief for nitrogen, inorganics, organic intermediates, solvents and plastics, dyestuffs, and pharmaceuticals at these plants.

Wilhelm Mann: Member of the Vorstand of Farben, member of the Commercial Committee, Chief of the Sales Combine for Pharmaceuticals, and member of the SA.

Fritz ter Meer: Member of the Central Committee of the Vorstand of Farben; Chief of the Technical Committee of the Vorstand that planned and directed all of Farben's production; Chief of Sparte II in charge of production of Buna, poison gas, dyestuffs, chemicals, metals, and pharmaceuticals; and Wehrwirtschaftsfuehrer.

Heinrich Oster: Member of the Vorstand of Farben, member of the Commercial Committee, and manager of the Nitrogen Syndicate.

Hermann Schmitz: Chairman of the Vorstand of Farben, member of the Reichstag, and Director of the Bank of International Settlements.

Christian Schneider: Member of the Central Committee of the Vorstand of Farben; Chief of Sparte I in charge of production of nitrogen, gasoline, diesel and lubricating oils, methanol, and organic chemicals; Chief of Central Personnel Department, directing the treatment of labor at Farben plants; Wehrwirtschaftsfuehrer; Hauptabwehrbeauftragter (Chief of Intelligence Agents); Hauptbetriebsfuehrer (Chief of Plant Leaders); and supporting member of the Schutzstaffeln (SS) of the NSDAP.

Georg von Schnitzler: Member of the Central Committee of the Vorstand of Farben, Chief of the Commercial Committee of the Vorstand that planned and directed Farben's domestic and foreign sales and commercial activities, Wehrwirtschaftsfuehrer (Military Economy Leader), and Hauptsturm-fuehrer (Captain) in the Sturmabteilungen (SA) of the Nazi Party (NSDAP).

Carl Wurster: Member of the Vorstand of Farben; Chief of the Works Combine, Upper Rhine; Plant Leader at Ludwigshafen and Oppau plants; production chief for inorganic chemicals; and Wehrwirtschaftsfuehrer.

The prosecution charged these 24 individual staff members of the firm with various crimes, including the planning of aggressive war through an alliance with the Nazi Party and synchronization of Farben's activities with the military planning of the German High Command by participation in the preparation of the 4-Year Plan, directing German economic mobilization for war, and aiding in equipping the Nazi military machines.¹ The defendants also were charged with carrying out espionage and intelligence activities in foreign countries and profiting from these activities. They participated in plunder and spoliation of Austria, Czechoslovakia, Poland, Norway, France, and the Soviet Union as part of a systematic economic exploitation of these countries. The prosecution also charged mass murder and the enslavement of many thousands of persons particularly in Farben plants at the Auschwitz and Monowitz concentration camps and the use of poison gas manufactured by the firm in the extermination

¹The trial of defendant Brueggemann was discontinued early during the proceedings because he was unable to stand trial on account of ill health.

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

of millions of men, women, and children. Medical experiments were conducted by Farben on enslaved persons without their consent to test the effects of deadly gases, vaccines, and related products. The defendants were charged, furthermore, with a common plan and conspiracy to commit crimes against the peace, war crimes, and crimes against humanity. Three defendants were accused of membership in a criminal organization, the SS. All of these charges were set forth in an indictment consisting of five counts.

The defense objected to the charges by claiming that regulations were so stringent and far reaching in Nazi Germany that private individuals had to cooperate or face punishment, including death. The defense claimed further that many of the individual documents produced by the prosecution were originally intended as "window dressing" or "howling with the wolves" in order to avoid such punishment.

The tribunal agreed with the defense in its judgment that none of the defendants were guilty of Count I, planning, preparation, initiation, and waging wars of aggression; or Count V, common plans and conspiracy to commit crimes against the peace and humanity and war crimes.

The tribunal also dismissed particulars of Count II concerning plunder and exploitation against Austria and Czechoslovakia. Eight defendants (Schmitz, von Schnitzler, ter Meer, Buergin, Haeffliger, Ilgner, Oster, and Kugler) were found guilty on the remainder of Count II, while 15 were acquitted. On Count III (slavery and mass murder), Ambros, Bueteffisch, Duerrfeld, Krauch, and ter Meer were judged guilty. Schneider, Bueteffisch, and von der Heyde also were charged with Count IV, membership in a criminal organization, but were acquitted.

The tribunal acquitted Gajewski, Gattineau, von der Heyde, Hoerlein, von Knieriem, Kuehne, Lautenschlaeger, Mann, Schneider, and Wurster. The remaining 13 defendants were given prison terms as follows:

<u>Name</u>	<u>Length of Prison Term (years)</u>
Ambros	8
Buergin	2
Bueteffisch	6
Duerrfeld	8
Haeffliger	2
Ilgner	3
Jaehne	1 1/2
Krauch	6
Kugler	1 1/2
Oster	2
Schmitz	4
von Schnitzler	5
ter Meer	7

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

All defendants were credited with time already spent in custody.

In addition to the indictments, judgments, and sentences, the transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty) and opening statements of both defense and prosecution.

The English-language transcript volumes are arranged numerically, 1-43, and the pagination is continuous, 1-15834 (page 4710 is followed by pages 4710(1)-4710(285)). The German-language transcript volumes are numbered 1a-43a and paginated 1-16224 (14a and 15a are in one volume). The letters at the top of each page indicate morning, afternoon, or evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Two commission hearings are included in the transcripts: that for February 7, 1948, is on pages 6957-6979 of volume 20 in the English-language transcript, while that for May 7, 1948, is on pages 14775a-14776 of volume 40a in the German-language transcript. In addition, the prosecution made one motion of its own and, with the defense, six joint motions to correct the English-language transcripts. Lists of the types of errors, their location, and the prescribed corrections are in several volumes of the transcripts as follows:

- First Motion of the Prosecution, volume 1
- First Joint Motion, volume 3
- Second Joint Motion, volume 14
- Third Joint Motion, volume 24
- Fourth Joint Motion, volume 29
- Fifth Joint Motion, volume 34
- Sixth Joint Motion, volume 40

The prosecution offered 2,325 prosecution exhibits numbered 1-2270 and 2300-2354. Missing numbers were not assigned due to the difficulties of introducing exhibits before the commission and the tribunal simultaneously. Exhibits 1835-1838 were loaned to an agency of the Department of Justice for use in a separate matter, and apparently No. 1835 was never returned. Exhibits drew on a variety of sources, such as reports and directives as well as affidavits and interrogations of various individuals. Maps and photographs depicting events and places mentioned in the exhibits are among the prosecution resources, as are publications, correspondence, and many other types of records.

The first item in the arrangement of prosecution exhibits is usually a certificate giving the document number, a short description of the exhibits, and a statement on the location of the original document or copy of the exhibit. The certificate is followed by the actual prosecution exhibit (most are photostats,

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

but a few are mimeographed articles with an occasional carbon of the original). The few original documents are often affidavits of witnesses or defendants, but also ledgers and correspondence, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
322	NI 5140	1558	NI 11411
918	NI 6647	1691	NI 12511
1294	NI 14434	1833	NI 12789
1422	NI 11086	1886	NI 14228
1480	NI 11092	2313	NI 13566
1811	NI 11144		

In rare cases an exhibit is followed by a translation; in others there is no certificate. Several of the exhibits are of poor legibility and a few pages are illegible.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, Reichgesetzblatt excerpts, photographs, and other items. The 4,257 exhibits for the 23 defendants are arranged by name of defendant and thereunder by exhibit number. Individual exhibits are preceded by a certificate wherever available. Two sets of exhibits for all the defendants are included.

Translations in each of the prosecution document books are preceded by an index listing document numbers, biased descriptions, and page numbers of each translation. These indexes often indicate the order in which the prosecution exhibits were presented in court. Defense document books are similarly arranged. Each book is preceded by an index giving document number, description, and page number for every exhibit. Corresponding exhibit numbers generally are not provided. There are several unindexed supplements to numbered document books. Defense statements, briefs, pleas, and prosecution briefs are arranged alphabetically by defendant's surname. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

At the beginning of roll 1 key documents are filmed from which Tribunal VI derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the IMT Charter, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of members of the tribunal and counsels. These are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by the minute book, consisting of summaries of the daily proceedings, thus providing an additional finding aid for the transcripts. Exhibits are listed in an index that notes the

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

type, number, and name of exhibit; corresponding document book, number, and page; a short description of the exhibit; and the date when it was offered in court. The official court file is summarized by the progress docket, which is preceded by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of the English-language document books.

The records of the I. G. Farben Case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the IMT, T988; NI (Nuernberg Industrialist) Series, T301; NM (Nuernberg Miscellaneous) Series, M-936; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; NP (Nuernberg Propaganda) Series, M942; WA (undetermined) Series, M946; and records of the Brandt case, M887; the Milch Case, M888; the Altstoetter case, M889; the Pohl Case, M890; the Flick Case, M891; the List case, M893; the Greifelt case, M894; and the Ohlendorf case, M895. In addition, the record of the IMT at Nuernberg has been published in the 42-volume *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947). Excerpts from the subsequent proceedings have been published in 15 volumes as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (Washington). The Audiovisual Archives Division of the National Archives and Records Service has custody of motion pictures and photographs of all 13 trials and sound recordings of the IMT proceedings.

Martin K. Williams arranged the records and, in collaboration with John Mendelsohn, wrote this introduction.

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Roll 14

Target 1

Volume 38, p. 13,490-13,797

May 5-6, 1948

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 38**

**TRANSCRIPTS
(English)**

5-6 May 1948 pp. 13490-13797

Official Transcript of American Military Tribunal VI in
the matter of the United States of America against
Carl Krauch, et al, defendants, sitting at Nurnberg,
Germany, on 5 May 1948, 0900, Justice Sheke presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.
Military Tribunal VI is now in session. God save the United
States of America and this Honorable Tribunal.

There will be order in the Court.

(Defendants Haeffliger and Hoerlein absent due to illness).

THE PRESIDENT: Any announcements from counsel for the Defense?

DR. NELTE (Counsel for Defense, representing Dr. Dix):

Mr. President, an agreement was reached yesterday that the Defense
counsel on Monday morning are to designate those documents which they
intend to submit from the mass of documents which the Prosecution has
now made available. We omitted to speak to you yesterday about how
it is to be made technically possible for the Defense counsel and the
defendants to examine these documents, which have been newly made avail-
able, before Monday. We ask you to make it possible for those defen-
dants who so desire, and their Defense counsel, to have an opportunity
either today or tomorrow to examine the documents which have not been
submitted yet.

THE PRESIDENT: Dr. Nelte, it is somewhat difficult to suggest to
you what might be done until we see how we get along today. We have
before us all of the documents that have been processed and delivered
to the Tribunal. Aside from the completion of the examination of the
witness on the stand and the presentation of the documents that are to
be presented by Dr. Gierlichs, if he is able to be here, all of the
other documents under the order that we have heretofore made are merely
to be marked. We think that it is entirely possible that by the end of
today's session we may be through this present supply of documents.

Now, if that is true, we can take notice of the situation this af-
ternoon. It may be possible that we can give you some time out of the
courtroom tomorrow to do the work that you want to do in the archives,

or in the depository. If not tomorrow, perhaps the next day, unless we go along with what we had told Dr. Silcher about his part here.

May I suggest to you that we postpone passing on your matter until later in the day and see how our program works out, and we will reconsider it a little later and undertake to work out something that will meet the problem.

DR. SEIDL: (Counsel for defendant Duerrfeld): Mr. President, we can contribute to shortening the trial by withdrawing some affidavits of affiants who have been requested to submit to cross-examination. I should like to take the liberty of telling the Tribunal now what these exhibit numbers are. They are Exhibit—

THE PRESIDENT: Now, you are now giving us Prosecution numbers, are you not, or Defense numbers?

DR. SEIDL: No, I am giving you exhibit numbers for the defendant Duerrfeld.

THE PRESIDENT: Very well.

DR. SEIDL: Exhibit Duerrfeld 189, Document Duerrfeld 1073, in Document Book 8, page 34. The second document is Exhibit 217, Document Duerrfeld 876, in Document Book 9, page 42. The third and last document is Exhibit 210, Document Duerrfeld 1075, in Document Book 9, page 1. That is all.

I should also like to ask the Tribunal to excuse the defendant Duerrfeld this afternoon since witnesses are again being examined before the Commissioner.

THE PRESIDENT: The record will show that the Duerrfeld Exhibits 189, 217 and 210 are now withdrawn from evidence.

The defendant Duerrfeld will be excused in accordance with the application of his counsel.

Are there any other announcements from counsel for the Defense?

Has the Prosecution anything to say?

MR. SPRECHER: About the withdrawal of these exhibits I just wanted to state a word, Mr. President. In order to save time, as well as to

attempt to make rebuttal of some of the matters raised in the evidence presented during the Duerrfeld case by Dr. Seidl, the Prosecution called only a very few of the affiants of the defendant Duerrfeld. Now, with respect to the affidavits withdrawn this morning, at least two of those affiants have shown up here in Nurnberg and are now available for cross-examination, not only concerning Dr. Seidl's affidavits that he got from them but concerning our affidavits and any other matters which we want to bring out of those same witnesses on rebuttal. We propose that the examination of those affiants proceed on the basis of the affidavits in our rebuttal books so that these inmates, who have come here from a long distance, do not have to have their schedules too completely upset.

THE PRESIDENT: Now, Mr. Prosecutor, in the first place, if the affidavits are out, there is no basis for any cross-examination; you understand that, of course?

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: Now, on the question of rebuttal, the Tribunal has not entrusted to the Commissioners the matter of control of rebuttal. Before we would hear the witnesses in rebuttal ourselves, or before we would modify the practice so far as commissioners' hearings are concerned, we should want to be more fully advised of the situation so as not to establish any precedent. By that I mean to say that we have only used commissioners for the purposes of supervising the cross-examination of witnesses. We have not delegated to commissioners the supervision of receiving rebuttal evidence because that directly concerns the matter of competency and admissibility.

If you wish to make some representation to the Tribunal with respect to whether or not you may use these witnesses in rebuttal, of course you may do that.

MR. SPRECHER: Mr. President, I don't think I made myself completely clear, although I realize that you are certainly a hundred per cent correct in the rules to which you are alluding. For example, we

have called, let us assume, fifteen Duerrfeld affiants. They appear in Nurnberg, As soon as they get in Nurnberg, on the last day now, we have had four of them withdrawn. Now, what are we to do, again call some more —

THE PRESIDENT: Mr. Prosecutor, we do recall that when Defense was getting ready to cross-examine some of your witnesses you helped us out very much by withdrawing a number of affidavits. There is nothing irregular about that. If they wish to waive the affidavit, they have a right to do that. You did the same thing and the Tribunal is heartily in sympathy with you from the standpoint of both of you.

MR. SPRECHER: The situation in our point of view is very, very different, Mr. President. We withdrew a number of affidavits of persons from foreign countries, but after an affiant was here, waiting to be cross-examined, and after the Defense has made its pattern with respect to who it was going to call, we didn't suddenly withdraw affidavits of persons who were here, particularly in the last stages of the case. Now, we will be in a position where we will have to call some more of these numerous affiants whom Dr. Seidl has put in some of his books in order to get a fair sampling. We have no assurance that after they arrive that Dr. Seidl won't withdraw them in the last five minutes.

Now the main thing that we want to do is to take a fair sampling of Dr. Seidl's affiants.

THE PRESIDENT: Gentlemen, we have no control over the right of a litigant to withdraw an affidavit that has been submitted in evidence, and when you take the affidavit out there is no reason left then to cross-examine with respect to something that is not before the Tribunal.

Now, the matter of whether the Prosecution wishes to use that same witness in rebuttal is an entirely different subject and we are expressing no opinion about that now. Certainly we are not going to say that you may not use a witness regardless of where he comes from or what he may have furnished in the way of affidavits to the opposition before.

You can determine for yourself whether you wish to use him as your witness, but I was just suggesting to you the practical administrative problem of conducting that sort of an examination before the Commissioner. Before we would make an order of reference of that kind we would want to know more about it, and we would be glad to discuss it with representatives of the Prosecution and Defense in chambers, to save time.

So make a survey of the situation and bring in Dr. Dix or Dr. Nelte

or Dr. Seidl, and talk to us about it.

The documents are withdrawn from evidence. There is to be no cross-examination on the affidavits. The matter of whether or not the witnesses are to be made available for rebuttal will be considered on the application of the Prosecution.

DR. SEIDL: I should just like to make one brief remark referring to Mr. Sprecher's statements. The prosecution did not ask for fifteen affidavits but for twenty-five, and these are the first three affidavits that we have withdrawing. As far as I can see, no other affidavits will be withdrawn.

THE PRESIDENT: Very well. Gentlemen, those matters are of no direct interest or concern to the Tribunal right now. If there is nothing further, you may proceed with the examination of the witness in the box, Dr. Boettcher.

DIRECT EXAMINATION (Continued)

RUDOLF HUENERMANN

BY DR. BOETTCHER:

Q. Witness, you told us yesterday that you were Chief of the Staff of General Thomas, who was head of the Wehrwirtschaftsstab (The Military Economy Staff), and we had stopped when discussing the question of how you, as chief of staff of the Military Economy Staff, were informed about Hitler's actual intentions and armament aims. Now, on the same subject I ask you the following. The Prosecution in their presentation of evidence and in cross examination of Defense witnesses, referred repeatedly to plans of the Army Ordnance Office, under the designation "FP 23" and "FP 63." Could you, witness, tell us what these names mean?

A. No. We did not at that time know what these names meant. We considered them merely code names, just as the Luftwaffe assigned numbers to its building programs: 51, 56, and so forth. But we did not know the background and the significance of these numbers.

Q. Did you know, witness, that FP 63, for example, meant the equipping of sixty-three divisions?

A. No; I learned the meaning of these figures only a few days ago here, talking to the Defense.

Q. Thank you. I now come to another point. Can you describe German armament to the Tribunal? I mean by that the nature, the extent, depth and so forth.

A. The German armament was designed for a Blitzkrieg. It was, so to speak, superficial armament. That is, a division set up in peace and a division to be set up during the war were equipped with excellent arms and very modern equipment. But there was no depth of armament. That is, behind this impressive facade there was no sufficient reserves of material. In certain types of guns we had hardly any reserve at all when we went into the field. And also there was no sufficient production background on a broad enough basis in order to secure adequate ammunition during the war for the troops in the field. And there was also not enough preparation of German economy for a big war, that is, a guarantee of the raw material basis..

Q. Witness, your last remark brings up the question: What about the so-called "Mob" plans, which in the last analysis were directed toward economic preparation for war?

A. There is no contradiction here. Every year we drew up a "Mob" plan. We calculated exactly the requirements for the event of war for the supplies of ammunition, arms, planes, bombers, and so forth. But these figures concerning requirements were to a large extent not adapted to German industry when war broke out.

Q. Witness, can you tell us in just a few words who was responsible for these Mob plans—industry or the military authorities?

A. The Mob plans originated only with the Army, the Air Force or the Navy. Industry itself had no influence whatever on them; industry was not consulted and did not make any suggestions.

Q. I shall now leave this point and ask you, witness: Do you know the concept of the so-called Karinshall Plan and the Schnell Plan (The Rapid Plan)?

A. Yes.

Q. At the end of your last answer you said that to a large extent the requirements for the event of war had not been assigned to industry at all. Is it true of the Karinhall Plan and the Schnell Plan?

A. Yes, the Rapid Plan was to be put into execution in 1941 or 1942, but even if it had been finished at the outbreak of the war, in 1939, the production would have been far from adequate for the military units which were in existence at the outbreak of war.

Q. Witness, as I have already announced to the Tribunal, I shall show you now Prosecution Exhibit 445, Document PS-1436. It was in Prosecution Document Book 21, English page 3. If you will look at this document, page 2 of the original, that is page 3 in the copy that you have, you will find the following statement, about the middle of the page "GFM." Do you find that?

A. Yes.

Q. "GFM—that probably means General Field Marshal Goering—demands that the further struggle for the factories should be stopped. No more statements are to be made to armament plants for the time being."

Would you please be kind enough to explain this sentence, which is not quite clear to a layman?

A. This measure which was ordered by Goering was of a decisive effect in the preparations of the German armament industry for the event of war. Because of the fact that in the summer of 1938 Goering prohibited designating any more industrial plants as armament plants, the preparations of the German armaments Program were very seriously paralyzed and the effect could be observed even later in the course of the war.

Q. May I ask you, witness, what in your opinion Goering's motives may have been to give such a decisive order?

A In the summer of 1938, the German foreign exchange situation had become somewhat acute, and the Ministry of Economics was trying to promote German exports. In connection with these efforts the Minister of Economics, Funk, asked Goering that industries which could promote exports should not be declared armament industries, in order not to interfere with exports.

The second reason was jurisdictional disputes between the OKW and the Ministry of Economics.

Q Let me ask you this: Goering's order had a material content, and was not just an order on paper?

A No, until the summer of 1939, for almost a year that is, we did not declare any more industrial concerns to be armament concerns. We were not able to prepare them for armament production.

Q Now according to your knowledge was the state of economic rearmament at the outbreak of the war such that it could justify Hitler's decision to wage a war of aggression?

A The situation at the outbreak of war against Poland was about as follows: The war against Poland was not a problem in itself, but in the leading positions in the Wehrmacht there were a number of responsible officers, including my chief, General Thomas, who realized that an aggressive war against Poland meant a new World War.

Q And what did you think about the German preparation for such a World War?

A We believed that the German armament situation was completely inadequate for such a World War.

Q Now did your chief, General Thomas, and you make your opinion known?

A Yes, we repeatedly declared our attitude as early as 1938, as a matter of fact, and then repeatedly in 1939.

Q Could you perhaps give us a few details about this?

A First of all, in 1938, shortly before the Sudeten crisis,

before the Munich Pact, we gave a comparison between German war potential, and the potential of England, France, Czechoslovakia and Poland. This statement, which was given only to the Highest Military chiefs, to Keitel, brought us a serious reprimand as defeatists, and we were informed by the general in the future to make no further similar reports.

On the 8th of August, 1939, there was to be a Fuehrer Conference. Before that the Commander-in-Chief of the Army asked us for a brief report on the economic-military situation. I made this report on behalf of my chief, the Deputy of the Chief of the General staff of the Army, General von Stuelpnagel. In this report I said that we could wage war against Poland; that we were also capable of waging a defensive war against the Western powers, but that we were not in a position to wage a long war of material when once the enormous potential of the USA industry should be aligned on the side of the Western powers.

In the middle of August, about the 15th of August, General Thomas submitted to the Chief of the Wehrmacht High Command, Keitel, a memorandum stating that a war with Poland would lead to a new World War, and this war would develop into a long world war of materiel, and in this war of materiel we would lose in the long run, because of our inadequate supply of raw materials, supply of food, and the inadequate industrial capacity. Therefore, war was to be avoided under all circumstances. This report was without result. Keitel answered, "You may absolutely rely on it, the Fuehrer does not want war. He will conduct his policy so skilfully that there will be no war."

For the last time we then tried on Sunday, - the Sunday before the war with Poland, - to influence the highest leadership. On that day General Thomas again submitted extensive statistical material to the Chief of the High Command of the Wehrmacht, with the aid of charts. On the one side the German war potential was drawn, and it was contrasted with the war potential of the prospective enemies. The superiority of the other side was so striking that there was no need to waste words on

it, but this report too, was unsuccessful.

I, myself, helped to work out this material, and I am informed about the details.

Q Witness, a question connected with the defendants; did the defendant, Dr. Krauch, know what General Thomas and you thought of the war?

A Professor Krauch came to see General Thomas frequently on questions which had to be settled between our two offices. I was also frequently present at these discussions. General Thomas again and again spoke of the development of the political and economic situation, and this took also place in August, 1939. General Thomas expressed his misgivings very frankly to Mr. Krauch. He told him approximately the same things that he had told Keitel. Dr. Krauch definitely shared these misgivings, and supported them, pointing out details of his own work.

Q In conclusion, witness, I should like to ask you briefly the following question. You said in your answer to one of my questions, that about the middle of August, Keitel said to you or to Thomas, "You may rest assured, Hitler will not go to war." In connection with that I should like to ask you when did you, witness, learn for the first time of Hitler's intention to attack Poland or to put through his demand on Poland by force?

A We did not learn of that until the 26th of August, 1939 when Hitler showed that he was resolved on war, by ordering the attack on Poland. This order was rescinded after a few hours, however. Before that, we had considered all of his steps more or less as a political bluff, and had never given up hope that at the last minute he would be sensible.

Q My last question, witness. Do you know of any facts to warrant the assumption that Dr. Krauch had more knowledge of Hitler's plans than you and General Thomas had?

A No, secrecy regulations were very strict in Germany. They were very strict secrecy regulations in the armament field as I mentioned yesterday, and that was especially true of military preparations, and

5 May 1945 - Stewart (Int. von Schon)
Court VI Case VI

specifically of the political intentions of Hitler. The civilian Ministries, the Ministries with which we primarily worked, - the Ministry of Economics, the Labor Ministry, the Food Ministry and the 4-Year Plan agencies, the Reichsbank too, weren't at all kept informed about political intentions, and so it happened that in the days before the outbreak of war, we were overwhelmed with inquiries from these agencies as to how we judged the situation.

The office of Professor Krauch was definitely in this category, and an order of economic mobilization would have had to be issued, before we would have known what was going on.

THE PRESIDENT: May I interrupt to say that there will be a session of the Commissioner in Room 295 at 10 o'clock this morning, which the defendants ter Meer, Ambros and Mann are privileged to attend if they wish.

Are there any other questions to be asked by counsel for the Defense before the Prosecution cross-examines this witness?

Apparently not, and the cross-examination may proceed.

CROSS EXAMINATION

RUDOLF HUENERMANN

BY MR. SPRECHER:

Q. Mr. Hu enermann, what was the relation of the Wehrwirtschaftsstab to the Feld wirtschaftsamt?

The Feldwirtschaftsamt was created in 1944 from the Wehrwirtschaftsstab, after the armament tasks had been transferred from the OKW to the Speer Ministry.

Q. Then the so-called Feldw irtschaftsamt at that time took over the files of the former Wehrwirtschaftsstab; is that correct?

A. To what extent they were taken over, I do not know. I was no longer in that office at the time.

Q. Now, in order to save time, I want to immediately show you a rather lengthy document which was taken from the files of the Feldwirtschaftsamt, but it refers to the period 1938 and 1939; do you recall weekly reports which were made under y our direction as Chief of Staff in the Wehrwirtschaftsstab at that time, in 1938-1939?

A. I did not understand your question.

Q. Do you recall the weekly reports which were made i n your office?

A. Yes.

Q. You remember those?

A. Yes.

Q. Now I show you NI 7452, which will become Prosecution Exhibit 2221. Do you recognize this as extracts from these weekly reports of your office?

A. We did make such reports, yes.

Q. Now my assistant will come down beside you in order to help point out certain pages. I think we have already placed a few markers in there, in that photostatic copy, in order to help you find these spots.

Now will you turn over to page 133 of the original, that is at page 2 of the English there, under the entry for the 22nd of June 1939; there is an entry which states that a certain conference took place about I. G. plants at Ludwigshafen and Oppau, and it says:

"In view of the importance of most of the materials in defense, the I. G. will soon make proposals concerning possibilities of storage, creation of new plants, and stockpiling, with estimates of costs and naming of suitable locations in the safe area."

Do you know who from your staff dealt with I. G. concerning that matter, by looking at that entry?

A. Yes.

Q. Who did that?

A. I assume that Oberregierungsrat or Moreck attended this discussion. I don't know, I assume so. Dr. Moreck was our Chief Chemist, and usually conducted these discussions.

Q. Did you personally visit Ludwigshafen or Oppau before the war broke out?

A. No, but I believe I can say something about

this subject.

Q. Well, I don't have any doubt about that, but will you please wait for a question. Now will you turn over to page 146 of the original. There is an entry for the 29th of April 1939, and under No. 2, your Honors, that is at the bottom of page 3 of the English translation, there is a reference to stored materials which states:

"The greater cost arising because of the storage and replenishment of the stocks will be borne by the Reich."

That is referring to certain stocks which had been stockpiled before the so-called Czechoslovakia crisis. What office of the Reich agreed to paying those additional costs of storage which I. G. Farben entailed at the time? Was that your office?

A. No.

Q. What office was it; do you know?

A. I can only assume that the Reich Ministry of Economics took over these costs, through the WIFO.

Q. Now will you please turn over to page 147 of the original -- that is about the middle of page 4 of the English translation -- that is an entry under date of 19 April 1939. I particularly call your attention to the phrase "mobilization schedule" and ask you if you had anything to do with the mobilization schedules for the Ludwigshafen plant in April of 1939?

DR. HEINTZELER: (counsel for defendant Wurster)

Mr. President, I just want to point out that it is impossible for the Defense to follow the exhibit with the aid of this copy of the document that we have been given because this copy does not contain all of the passages that are being discussed. The Defense, therefore,

after looking at the complete material, to come back to this matter.

THE PRESIDENT: Do the Defense Counsel have a German copy of this document?

MR. SPRECHER: There is one page which apparently had a part of an entry improperly placed, which is often true. I have given them English copies, and since the doctor understands English quite well, I think he will be able to follow quite closely.

THE PRESIDENT: We would like to avoid as much as possible, from this point on, having to have recourse to the reconsideration of these matters. Don't hesitate, Dr. Heintzeler, if you are having trouble in locating what the Prosecution is talking about, to interrupt the proceedings. We would rather do it that way so that you know what is before the Tribunal. Do you have the present entry in mind now?

DR. HEINTZELER: Mr. President, I have just been given an English document. It is possible that this passage is in it. It was not in the one I had previously.

THE PRESIDENT: Very well. If you have any difficulty along that line, let us know and we will bear with you until you find out what is before the Tribunal.

MR. SPRECHER:

Q. Do you remember our question after this long discussion?

THE PRESIDENT: I am sorry I don't.

BY MR. SPRECHER:

Q. Mr. Witness, I referred you to the phrase --

In case there is any question, I believe the witness recently used the word, "WIFO", which has no relation to "WIPO", in case it did come across the translation that way.

THE PRESIDENT: Now repeat your question, and we will start afresh.

Now you are talking about the entry of April 19?

LR. SPRECHER: Yes.

THE PRESIDENT: All right.

BY LR. SPRECHER:

Q. I pointed to the words, "Mobilization Schedules" of Ludwigshafen, and I asked you, witness, if you had anything to do with working upon mobilization schedules for Farben, in April 1939?

A. It says here, "Conference of the Control Office Chemistry", this shows that the mobilization schedules did not go through the OKW, and not through the Wehrmacht, but through a civilian agency under the Ministry of Economics, and this was the Control Office Chemistry.

Q General, I want to come to your distinction between armament and non-armament and between civilian and war in just a moment. But my point is, someone from your office was present at this meeting. Was that you or was that somebody else?

A Now. We had twenty-five such groups. It was impossible for me to have attended such conferences. I was at the head of the office.

Q Now, were you informed about the transfer of parts of plants from one place to another within Germany because of military economic problems?

A Yes.

Q Were those matters taken up with you personally or could your subordinates handle the transfer of a recommendation for having a factory transfer a plant out of the red area? Could they make the decision without you?

A Yes. May I explain this.

Q Well I'd just like to know whether or not your subordinate —

THE PRESIDENT: Now, Mr. Prosecutor, he is not required to answer arbitrarily yes or no. There is a qualification on it and you will have to determine whether you want to have the question answered his way or abandoned.

MR. SPRECHER: Go ahead, Mr. Witness.

Q In 1939, there still existed for Western Germany the so-called regulations for economic evacuation. That is the German West Wall in 1939 was not considered strong enough to hold out against any French attack. For the event of a French invasion of the Saar and the area of Ludwigshafen we had considered already in peacetime what steps were to be taken and in part these steps had already been carried out— so that in an emergency important material, supplies, and so forth, could be removed from this evacuation area to the interior of Germany.

Q Now —

A In the course of these preparations the High Command of the

Wehrmacht and the Military Economy Staff issued general instructions to what area and for what factories such preparations were to be made. In August 1939 or at the beginning of September 1939, after the French declaration of war, this evacuation was put into operation. We evacuated the Saar economically and of personnel.

Q This is going a little too far. Perhaps if we turn to another entry on 15 September 1938, at the bottom of the page, we can make a little more progress.

THE PRESIDENT: Just a moment, in order to save any further interruption before you ask your question, does counsel for the defense have that entry now before you? Very well, ask your question.

DR. HOFFMANN: (For Ambros, ter Meer and Duerrfeld) Mr. President, we were supposed to leave at ten o'clock to attend the commission, but may we stay and listen to this cross-examination, if the Tribunal will excuse me?

THE PRESIDENT: The Commissioner's hearing will just have to be delayed. We can understand that they want to be here and are entitled to be here.

BY MR. SPRECHER:

Q The entry for 15 September. It notes there that the transfer of an ethylchloride plant was made from Ludwigshafen to Schkopau and that that was ordered by the WSTB. Is that your office?

A Yes. But this was a military measure which was necessary so that in the event of war such a vital plant as an ethylchloride plant might have its production guaranteed.

Q Now, witness, why did you decide on 15 September 1938, fifteen days before the Munich Pact, that that particular plant should be moved to Central Germany?

A This factory was no exception. There were general evacuation preparations which had been ordered for the West and not just for the Ludwigshafen Plant. The preparations were made on a broad basis. It's

perhaps just an accident that we don't have any material about other firms, otherwise I could prove that this order was a general one, not specifically for this factory.

Q Well, when did that order come out, in September or was it later than 15 September 1938?

A No, I worked on this preliminary work -- the evacuation orders given out by the General Staff of the Army. I can't tell you the exact date when these orders were issued. The evacuation orders were part of the so-called Mob Plan Army. It was quite independent of the political developments. If it says here: 15 September, that is just a coincidence with a political tension. We had begun preparations for evacuation much earlier. The plans were checked annually and new plants were included in the list.

Q Now, you mentioned the Krauch Plan. Didn't your office have to carry out the actual execution of the Krauch Plan?

A Would you mind repeating the question.

Q Well, I will refer you to another entry under 15 September. It's on page 202 of the original. It's under another entry of 15 September, and it states there that the Reich Office for Economic Development emphasized that it will, exactly as hitherto, leave the supervision of the construction to be carried out in the course of the speeded up plan of Dr. Krauch on the one hand to the Army Ordnance, and on the other hand to the Military Economic Staff. That is your office. Did you personally have anything to do with helping to carry out this Krauch Plan?

A No.

Q Now, do you recall with respect to Farben whether or not there was a movement by your office in the summer of 1939 to consolidate from all the various plants of Farben the various mobilization schedules for the various auxiliary chemical materials -- preliminary products?

A Of course we were interested in the Mob work being carried out according to certain basic uniform principles in all the Farben plants.

Q Now, Mr. Witness, you have mentioned you didn't know what certain terms meant. I want to ask you if you know what another term means. SH Number 9. If you turn over to page 228 of the original, there is an entry for 7 July and in the fifth paragraph there is a reference to a letter from W-RUE (Wehrwirtschafts-Ruestungsstab). What is a SH 9 plant?

A SH 9 means "Sammelheft" or Folder 9. I assume that this is folder 9 of the Mob Plan Armament.

Q Now it mentions there —

A And excuse me, folder 9, as I recall it, is concerned with air raid protection of German industry during the war, and preparations to be made to that end during peacetime.

Q That is all the questions I will have about that at the moment. Now, witness, you mention that Germany's armament was one of an impressive facade but that it did not have sufficient reserve. Is it not true that one of the tactics which your office, among others, worked out, was that the reserve behind the impressive facade was to be a thorough economic military preparation which would be adaptable to the changing requirements once war began?

A I said that we had a very well equipped Wehrmacht which was quite prepared to wage war against Poland, and a defensive war in the West, but it was not in any position to wage any long drawn out war of materiel. We did have a good military economic organization, but we did not have the necessary component on the civilian side — I mean to say the establishment of civilian administration for war was only just beginning and we lacked especially the legislation regulating economy during wartime, the so-called military economy regulation. This military economic regulation was not issued at all. It was to regulate all competency in wartime. I believe that there were very great shortcomings in the civilian field which had a very bad effect when war broke out.

Q. I was speaking of the theory of your defense, behind the Panzer, behind the well organized army, that could immediately wage blitzkrieg war, as you put it. Wasn't it the theory of the German High Command, a theory approved by Goering, that your reserve was to be in the strength of your economic military organization prior to war?

A. No. To wage a long war one needed a material basis in addition to an adaptable organization and the necessary people. What we needed was industrial organization and especially we lacked raw materials. At the outbreak of war, hardly a third of the rapid plan was ready. At the outbreak of war, we had a capacity of about 5,000 tons of gunpowder, and if we consider that the Hindenburg Plan of 1916 provided for 16,000 tons of gunpowder per month, then what we had at the outbreak of war in 1939 was only one-third of that, and I can give you as many examples as you like, to show that the material basis, the capacity of the factories, did not exist. But, and this is much more important: The raw material basis did not exist for a long war and this raw material basis can not be created by any organization or by any theory. It has to exist in nature.

Q. Now, just along that line I have a question. What was Goering's purpose in connection with the rearmament, in declaring that fewer firms were to be denominated as so-called armament firms, as against raw material preparation firms. Was it not because you were short of the intermediate products and that therefore it was senseless to designate more firms as armament firms? Isn't that right?

A. No.

Q. What was his purpose? Did he want to reduce the rearmament?

A. No. I may say the following. I.G. Farben was not an armament concern. It did not fall under this term at all, not even the preliminary products. There were only certain individual explosives plants and so forth that were considered in this connection, but they could not produce for export. The reason was that in the case of machine factories, motor factories and so forth, which were to be declared arma-

ment concerns they were put under the Wehrmacht and Wehrmacht orders got priority. But Goering was very much interested in increasing exports and I am sure he did not believe in 1938 that a war would break out the next year. That is probably why he made this decision.

Q. Were you present when General Thomas had this conversation with Keitel sometime in 1938 or 1939, which you mentioned on direct-examination? Were you there?

A. There were several reports. I was present at one. I can't say exactly. I believe it was the middle of August.

Q. What year?

A. 1939.

Q. Had Thomas ever made any similar representations to Keitel before that time so far as you know?

A. More or less, since the beginning of the Four Year Plan, Thomas had again and again tried to combat the idea that even after the Four Year Plan was put into execution a World War could be waged, and in his public speeches Thomas, in conscious opposition to the Party Line, repeatedly said that even the Four Year Plan will not bring us autocracy. It will bring relief in getting our peacetime supplies but it will not enable us to wage a war in which Germany will have to live on her own resources and wage war from his own supplies.

Q. You mentioned that there was a strong feeling among certain of your officers on the German High Command that at the last minute some of those steps which you considered as political bluff would be retracted so that there would be no trouble. In connection with that I only wanted to ask you as to what other steps you had in mind which were from time to time considered by you as political bluff.

A. I didn't quite understand what you mean by your question.

Q. You mentioned that you considered certain measures of the Reich government and Hitler as political bluff, is that correct?

A. German policy, we thought, by increasing the pressure on Poland,

was a bluff and that it was not backed up by a serious determination to wage war; we were of the opinion that Hitler would decide at the last minute not to take serious steps, but to be sensible, and we found the justification for this assumption in the statements which Hitler himself made to us, and secondly, in the general information which we got from Keitel. This information was always like this: "I can assure you definitely there will be no war." "You may rest absolutely assured that there will be no war." And after Keitel on August 1939, had presented the material to Hitler — the material in which Thomas compared the German war potential with the enormous potential of the other powers, Hitler said, "I see that the others are stronger. But now that I have the pact with Russia in my pocket there won't be any war. It is unnecessary for Thomas to worry."

Q. My question was whether or not there was any other measures of political bluff which you or General Thomas referred to or was that the only time you observed any so-called political bluff?

THE PRESIDENT: Just a moment. Are you speaking of the pressure on Poland?

MR. SPRECHER: Yes, apart from the phase you have just described with respect to Poland, did you regard any of the other political measures as political bluff?

A. The pressure on Czechoslovakia in September 1938 could perhaps also be considered bluff.

Q. Well, what about after the Munich Pact and before the occupation of Prague in March 1939. Did you consider that there was any political bluff going on then?

A. Your question refers to the occupation of Prague?

Q. The period just before that, yes.

A. The Prague development occurred so fast that one could hardly follow developments, and the occupation came as such a surprise and without any big preparation that I hardly consider it bluff.

Q. Witness, is it your testimony that German troops hadn't been marched up to the Czech border months before March 1939? There had been no troop concentrations there during January, February and March so far as you knew -- is that your testimony?

A. I am not informed about German operations in the Spring of '39.

MR. SPEECHER: Now, Mr. President, this witness would normally have to be called before the commissioner because of another affidavit, but I think I can ask three questions and avoid that necessity, if I may.

THE PRESIDENT: Will you be able to conclude your cross-examination by recess time?

A. It's rather difficult to tell the time exactly by that clock.

THE PRESIDENT: Suppose you say if you are near the conclusion and we will let you go ahead over the recess a minute or two or three if it is necessary to conclude it.

BY MR. SPEECHER:

Q. Witness, you have given an affidavit which is Krauch Document Number 148, Krauch Exhibit 197, concerning the use of prisoners of war in the armament industry and dealing with the letter of Colonel Mirschner, and later on you mention that you were somewhat of an expert in that field and knew something about it. Now, I want to talk to you just about the general attitude of the OKW and the German attitude toward International law, so far as you know it from your own immediate dealings with that matter during the war itself. Isn't it true that you yourself heard from General Thomas on one occasion, when the propriety of a certain act under international law was raised, that there were no political objections to it, and that any objections based on international law were not pertinent for reasons determined by the necessity of war.

THE PRESIDENT: Mr. Prosecutor, I can't see that that question would be calculated to develop any fact whatever that would be of any value

in resolving this case. We are trying individuals charged with specific crimes. It does seem to me, personally, that that is as far afield of anything that has any pertinence here.

Q, Mr. President, may we have the recess then. I will come back and read to you the provision from his affidavit which I would say is in point and I just wanted to indicate to you that that is only preliminary to the final question.

THE PRESIDENT: Have you an extra copy of that affidavit you could send to us in chambers so that we would know what is in it when we do come back. Krauch Exhibit 197 -- is that correct?

MR. SPRECHER: Yes, Krauch Exhibit 197, Mr. President, which is found in Krauch Book Number 9 on page -- well, it's Krauch Document Number 148 and it's indicated in the index as being about 113 or 112.

THE PRESIDENT: Now, is that the only exhibit that will be the subject of your present inquiry?

MR. SPRECHER: Yes.

THE PRESIDENT: Very well, the Tribunal will rise for its morning recess.

THE MARSHAL: The Tribunal is again in session.

MR. SPRECHER: Mr. President, just before the recess I had put a question which was in connection with Krauch Document 148, Krauch Exhibit 197, in view of the fact that the witness, in paragraph 3 as well as in paragraph 2 of that affidavit, submits certain principles which he believes correct concerning the applicability of the rules of land warfare and the Geneva Convention, although the Geneva Convention isn't mentioned directly.

THE PRESIDENT: I'm just wondering how material the news of this witness on questions of international law may be. Law is law and what you or I might think about it would not change the picture. The question is, just what is the law?

MR. SPRECHER: I can only agree with your Honor but my point is that this question is raised in connection with a certain practice in the armaments industry where this witness had certain influence and the defense has seen fit to call this witness to talk not only about what his view of law is but whether or not the determination to treat the K. & L. plants, the war essential and vital plants, and plants vital to the general economy, as against those plants that were designated armaments plants was correct, and in connection with any weight to be given to his testimony concerning the nature of that delimitation, I think it would be —

THE PRESIDENT: Go ahead. Ask your question. You had better repeat the question so that we get started with an understanding here.

BY MR. SPRECHER:

Q. Mr. Witness, my question to you is the following: In your own experience in the High Command did it not come to your attention during the course of your official duties that the question of international law was determined by what was thought to be the necessity of war and any political expedience that was involved?

A. We of the Wehrwirtschaftstab tried again and again to adhere to the principles which were laid down by international law and part of those

principles was also the employment of prisoners of war in armaments plants. The concept of armaments plant has not been defined by international law. The concept of war equipment has also not been defined by international law. We tried to represent the opinion that the German standards for the concept of equipment of war should also be applied to the treatment or the employment of war prisoners in industry.

Q. Witness, we all have read your affidavit by now along this line, but I'm asking you a rather specific question; whether or not in your official dealings, when a question of international law came up you didn't hear yourself that the question was not one of what international law really was, but rather one to be determined by the immediate necessities of war?

A. No. It was our opinion that international law was independent of war necessities as far as the war or the development of the war had not made the regulations of international law illusory anyhow. In that respect I want to mention one case as example. After the Armistice with France had been concluded in the summer of 1940, Goering demanded that the very large stocks of fuel oil located in Tunisia, North Africa, belonging to the French Navy and all the gasoline stocks that amounted to more than 100,000 tons at the time, should be turned over by the French as war booty. We the OKW held the opinion that the Hague Convention of Land Warfare and the Armistice agreement with France did not give us any legal justification to demand the extradition of these stocks from the French, and Goering gave us the reasons for his demand as being that the Italian fleet had only very limited amounts of fuel oil and that for the Mediterranean we needed this fuel oil very vitally. Although there was a military and perhaps even a political necessity in that regard, the OKW at the time was able to reject this demand of Goering's by reference to international law.

Q Now, in order to try to get to the point of this matter I would like to show you Document No. NI-13509 which is Prosecution Exhibit 2222. It is a letter of the 12th of March 1940 which is signed by you, Mr. Witness.

A Signed by me, sir.

Q Now, I refer you to the middle paragraph in the page particularly and I want you to quickly read through the whole document, if you will, please.

A Yes.

Q Now, Mr. Witness, does that refresh your recollection that General Keitel passed information to the Wehrwirtschaftsstab, the War Economy Office, which you, in turn, passed on to the High Command of the Army, the OKH, concerning the role of the necessity of war with respect to determining what international law was?

A I would like to say that in that respect, apparently, the extension of equipment in plants is concerned with the Burbach Foundry in the Saar area for on the 1st of March 1940 we were not yet on French territory. This can only concern a German plant and this Burbach foundry, as far as I can remember, was situated in the front lines and was thus exposed to destruction. I have already mentioned before that in August and September 1939 we had transferred to a great extent plants from the Saar area to the rear areas.

Q Just a minute, Witness; I think we can save some time. What question of international law could be involved if you are only talking about German plants?

A In my opinion, it could have been only a German plant because in March of 1940 we were not yet on French territory.

Q We have other documents which are already in evidence which will clarify that point. I have no further questions.

THE PRESIDENT: Any further questions, counsel for the Defense?

REDIRECT EXAMINATION

BY DR. HEINTZELER (Counsel for defendant Wurster):

Q Witness, during cross examination by the prosecution you were shown an extensive document. That document was called an excerpt from the weekly reports of the Feldwirtschaftsamt by the prosecution for the time June 1938 to May 1940. Was there a Feldwirtschaftsamt already at that time?

A No. I already emphasized that the Feldwirtschaftsamt emanated from the Wehrwirtschaftsstab. In 1944 the Wehrwirtschaftsstab was renamed since Minister Speer took over all armaments questions in the OKW.

Q When looking through those documents, witness, did you notice that practically all of the entries and reports in that document are called drafts and that they don't bear any signature? May I hand you the document once more? May I ask you please, witness, to answer my question?

A This is not a final weekly report to which one can attach importance but these are drafts by experts from the Raw Materials Department 3 of the Raw Materials Division and this draft of Department 3 was first sent to the Department Chief who issued it. Frequently, we made changes in these drafts and this was done because the experts in question who were working only on the limited deal of their own knowledge could not see the large scale connections and thus perhaps created the wrong picture; and something else I want to emphasize; he might incorrectly represent the competencies and jurisdictions of his field of work and thus he also sometimes used wrong expressions.

Q In these drafts conferences are mentioned frequently which were held with other agencies or with firms. Can you see from those drafts who participated on behalf of the army, the Wehrmacht, and the Wehrwirtschafts agencies in these conferences? I may remark that in the explanation to this document the prosecution has pointed

out that those documents allegedly show that leading officials of military economy paid visits to Ludwigshafen and Oppau, for instance.

MR. SPRECHER: Now, just a minute; Mr. President, I think that that is a very unfortunate question. This is a document which we were going to have in our rebuttal book for obvious reasons but it also came in very handy here during cross examination. Now, it hasn't even been presented and as a favor we have given counsel the index to have that before this document as well as its sister documents in this document book are presented, and as a preliminary part of his question some of our index to our document is read. It seems to me it is not only highly suggestive but also highly argumentative. He can call for the facts.

THE PRESIDENT: That objection is well taken and is sustained.

Q Then I would like to rephrase my question. From the reports you were submitted can you see in detail who participated in what conferences?

A If the department chief participated in any conference it would have to be recognizable from the report or from the diary. In general it was customary if the department chief participated in a conference that that was so noted in the report.

Q Then you are of the opinion that if such a note is not in the report --

A Then only the expert was in charge of the conference.

Q Did I understand you correctly in cross examination that your answer was that, apart from only few exceptions, the mobilization question for the Farben plants were not worked on by your agency but the Reich Ministry of Economics or the Control Office Chemistry?

A The mobilization of the chemical industry was handled by the Reich Control Office Chemistry or regionally it was handled by the so-called Fuehrungsstab Wirtschaft which were transformed

when the war broke out into the Landeswirtschaftsamt, Regional Economy Office.

Q Would you then nevertheless consider the reports submitted to you as a complete course for developing the mobilization questions in view of the large amount of Farben plants?

A I cannot answer that question.

Q Then I want to ask you particularly with reference to the Farben Ludwigshafen-Oppau plant. Do you know whether the plant leader of that plant, Dr. Wurster, at any time participated in a conference about mobilization and similar questions in your agency?

A No.

Q Did you know Dr. Wurster personally?

A No.

Q Do you know that the Farben plants in Ludwigshafen-Oppau in 1939, when the war broke out, had no obligatory mobilization production plans?

A No.

Q How am I to understand your answer?

A I do not know whether they had a mobilization plan and how far their work had progressed.

Q Then I have a final question. The prosecutor pointed out various passages from these reports, in particular those which dealt with questions of shifting and transferring plants and stocks from endangered territories. I want to ask you for something you should know from your expert knowledge. Could the plant leader of a plant in this danger zone conclude from these measures or considerations of the authorities that Hitler intended to wage a war of aggression? I emphasize the words "war of aggression".

A No.

THE PRESIDENT: That answer may be considered out if you wish to make the objection.

MR. SPRECHER: It seems to me that the question was improper

5 May 48-44B-9-5-Primeau (Int. Katz)
Court No. VI, Case No. VI.

in the nature of its formation.

THE PRESIDENT: Well, that objection is overruled. Go ahead.
The answer is in now.

DR. WEINTZELER: Then I have no further questions.

BY DR. HOFFMANN (Counsel for defendant Ambros):

Q. Witness, in Exhibit 2221, the Farben plants are mentioned repeatedly. Witness, what would you have done if to one of your requests where you expressed a certain demand or desire about certain fields in economy, any representative of Farben had answered: "I am not going to attend such a conference"? The question is first: would it have been possible; would that have been possible at all, conceivable?

A. It would have been possible, it is true, but it never happened in practice. If we invited representatives of large German industry to attend a conference, then I never experienced it that any German firm would have tried to get out of such a request.

Q. My next question is this: in your opinion, was there any reason at all to try to evade such a question or not comply with such a request?

A. No, for these demands and requests that we made to German industry we regarded as being completely within the limits of what was legally permitted and necessary from the point of view of home defense.

Q. What do you mean when you say within the limits of what was legally permitted?

A. That we were permitted and had the right to mobilize our forces within Germany for the purposes of home defense, national defense.

Q. You said that "we had the right." To what extent do you consider yourself an authority that had the right to undertake such action?

A. Since we were in the OKW we had the exclusive task to take care of national defense and within the scope of those duties we also had to call in German industry to take those measures which we considered necessary in the interests of national defense. By law we were appointed as the supreme agency for national defense.

Q. Then you never had the idea, Mr. Witness, that anybody in German industry could oppose the demands that you had to make.

A. No, I never had those ideas and I may supplement that during the

years preceding 1933 it was different. At that time, and I experienced it myself during a conference, which the then Oberst von Blomberg had with Herrn von Bohlen in Villa Huegel in 1927 or 1928 the firm of Krupp rejected developing certain guns which were not admissible under the Versailles Treaty. That was possible until 1933 and I believe that I can remember that demands that were made at that time to I. G. Farben were rejected by the Vorstand with reference to the Versailles Treaty and we were forced at the time — that is, we from the Wehrmacht were forced at the time — to build up, to construct, plants on our own initiative because German industry refused to violate the Versailles Treaty in any way. I have been in the OKW since 1927 and, therefore, I am somewhat informed about armaments questions.

Q. And why did that change?

A. It changed in the course of the years after 1933 on an ever-increasing scale. I didn't investigate the international legal justification for this change. Whether we were justified at the time I wasn't concerned with because I was only a captain, but German legislation demanded this attitude from German industry and thus industry was forced to comply with the demands.

THE PRESIDENT: Gentlemen, are you all done with this witness? Apparently, you are. Just a moment, please. Then, Mr. Witness, you are excused from further attendance and the Marshal will escort you from the box.

Br. Boettcher, are you ready to resume? Have you anything further?

DR. BOETTCHER: Mr. President, my presentation of documents has been concluded in all respects.

THE PRESIDENT: What do you know about Dr. Gierlichs?

DR. BOETTCHER: I heard that he was in the building—Dr. Gierlichs. I am just being told that he is conducting cross examination before the commissioner.

THE PRESIDENT: It looks like we are getting in competition with our

commissioner about here this morning.

MR. SPRECHER: Mr. President, the commissioner hearing has been delayed up until now because of the testimony of the last witness and I understand from Mr. Amchan that the witness in which Dr. Gierlichs is interested cannot come on possibly until this afternoon since the hearing has been postponed this much.

THE PRESIDENT: Do you think otherwise Dr. Gierlichs is ready to present his books, Dr. Boettcher?

DR. BOETTCHER: I don't know that, Mr. President, but I am prepared to find out from Dr. Gierlichs myself.

DR. SILCHER: (Counsel for defendant von Knieriem): Mr. President, I could now present the remaining documents for Dr. von Knieriem.

THE PRESIDENT: Now, gentlemen, the defense counsel are pretty well represented here. On our agenda we had next in order the presentation by Dr. Gierlichs. Of course, if he is tied up with the commissioner's hearing that is another matter and then we did have following that an order for what we have fallen into the habit of calling "loose ends" for practically all of the defendants starting with Dr. Kuehne, followed by Dr. Buergin and so forth and so forth.

Now, the Tribunal is not so much concerned about that order with respect to which you have already been advised as we are about the possibility that if we depart from the order and take up matters out of order we will be embarrassed from time to time by someone stating: "I wasn't expecting to be up until tomorrow or later this afternoon. I am just not now situated to go along."

If we may have an understanding that we shall follow that order as much as is practical and that other counsel will be ready to go along in the event we have to depart from that order, it is entirely satisfactory with us. It is more a matter of an understanding with you that we are most concerned about.

Did anyone undertake to find out how Dr. Gierlichs is situated?

Has anybody been down to see whether he is engaged?

DR. BACHEM: Mr. President, I just sent someone to Dr. Gierlich's office and I will have news from him in five minutes. Perhaps he himself will come.

THE PRESIDENT: Very well; the Tribunal will rise for five minutes and we will wait and see if we can get Gierlich here and get that matter out of the way or, at least, an understanding about it, and then we will take up the others.

The Tribunal will rise.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. SPRECHER: While there is an interruption I just might say to Your Honors and Defense counsel that the third rebuttal book, in both English and German, has been distributed. The Defense copies are available in the Defense Center, and, if Your Honors desire, we can spend about three minutes with that book at one-thirty this afternoon.

THE PRESIDENT: Very well.

Dr. Gierlichs, the Tribunal is a bit at loss to understand why you cannot be at two places at the same time this morning. What is your situation with reference to your presentation, Dr. Gierlichs? Are you tied up with the Commissioner?

DR. GIERLICH: No, Mr. President, the examination of the Defense witness Dr. Schmidt has been postponed to this afternoon, and I now can present the DAG that are still missing.

THE PRESIDENT: Very well.

DR. GIERLICH: All of the documents to be presented are in DAG Document Book 3.

THE PRESIDENT: You go ahead, Dr. Gierlichs. I think I am short a book; I will ask the Page to go to my office and see if he can find my DAG Book 3, if he will. I can make a memorandum in the meantime so as not to delay you.

DR. GIERLICH: DAG Document No. 28 which is to become Defense Exhibit No. 160, is an affidavit of 19 March 1948 from Dr. Rudolf Schmidt. In agreement with Mr. Sprecher, at this time I want to clarify for the record that as far as the Prosecution wants to cross-examine witnesses about the DAG questions, the documents of this third document book for DAG were made available to the Prosecution in time so that the cross-examination about these documents has already been extended to these documents, although they were not yet before the Tribunal at the time as evidence.

As DAG Document No. 29, which will become Defense Exhibit 161, I offer

an affidavit dated 24 February 1948 by certified Engineer Heinrich Schindler, in which the affiant gives information in detail about his technical knowledge in the field of powder and explosives production. In that connection, may I clarify for the record that in the case of this affidavit it is the affidavit, the introduction of which the Tribunal at the time suggested when the first two document books DAG were offered, when we had heard discussions about the expertness of the witness Schindler, to make his affidavit DAG No. 12, 13-1 and 13-2.

As DAG Document 30, Defense Exhibit No. 162, I offer an affidavit of Franz Anton Gierlichs dated 19 March 1948 about the Prosecution Exhibit 1941.

DAG Document 31, which is Defense Exhibit 163, is an affidavit of Diploma Engineer Schindler dated 24 February, 1948 where he states that DAG had their own Vermittlungsstelle, their own Liaison Agency and that they did not use the Vermittlungsstelle of Farben.

DAG Document 32, Defense Exhibit 164, will be another affidavit dated 25 March 1948 about the Prosecution Exhibit 1937. DAG Document 33, Defense Exhibit 165 is another affidavit of Schindler on Prosecution Exhibit 1937.

DAG Document 34, which will become Defense Exhibit 166, is an affidavit of Friedrich Duehring dated 25 March 1948 dealing with Prosecution Exhibit 1940. The last DAG document, 35, will become Defense Exhibit 167. This is an affidavit of Waldemar von Muensch dated 13 March 1948.

May I draw your Honors particular attention to this affidavit which goes beyond the questions dealt with under the concept of DAG, and it is of general significance because it deals exhaustively with the regulations about observing secrecy in Germany and with the practical effects of those regulations in regard to the degree to which industry was informed about events that were to be kept secret. The particular expert knowledge of this witness can be seen from the fact that from 1935

until 1945 he was the chief of a department of the OKW which was the sole agency in Germany for rendering an expert opinion to courts and other agencies in dealing with the objective determination whether a certain act or omission had, in effect, constituted a violation of secrecy regulations or not. After a detailed description of the legal basis of the secrecy regulations and their practical application the witness makes the following statement in conclusion: "On the basis of my knowledge of the above-mentioned problems, I consider it impossible that the Vorstand of a big enterprise like the I.G. Farben industry A.G. received detailed information about proceedings within subsidiary and tertiary companies which were under the secrecy protection because military offices had an interest in these companies, as this would have been a violation of the regulations governing secrecy. The same applies also to the proceedings within the companies themselves, because as already mentioned the individual members of the Vorstand were permitted to talk to their colleagues about measures which had to be kept secret only if those colleagues too had to be interpolated in their official capacity in the carrying out of these measures.

This point of view alone governed the extent of informing individual persons, but not obligations which resulted from other aspects, such as, for, instance, the directives in connection with privileges obtained from possession of shares which were contained in the business regulations of the Vorstand or the Aufsichtsrat, or similar directives, as the regulations governing secrecy were superior to all other regulations."

The submission of this document, Mr. President, concludes the D.A.G. evidence that was still outstanding.

ER. SILCHER: Mr. President, I have been asked at first to tell you that Dr. Kuehne, who would really be first in sequence, asks to have his submission postponed because of change in his program, and I, therefore, ask that Document Book 5 for Dr. von Knieriem be taken up.

JUDGE HEBERT: Just a minute. As the President has directed, the Tribunal has no objection to departing from the order which we have established, if other counsel for Defense do not object. We are, however, under the order of business, which as it was previously indicated, that the documents should merely be given their numbers and marked into evidence. Now, does anyone object to Dr. Silcher proceeding at this time? Counsel for Dr. Buergin would be next in the order ...

You gentlemen defer? Well, then proceed, Dr. Silcher, that will be all right.

Now, would you state what books are required for your presentation?

DR. SILCHER: Book 5, and Book 4.

THE PRESIDENT: Just a moment, Dr. Silcher, until we get straightened out on our books. The books are comparatively small; we don't object to that but it does take a little time, sometimes, to find what we are looking for here.

JUDGE HEBERT: There seems to be one book missing, but we will proceed, Dr. Silcher, and make notes.

DR. SILCHER: Yes, Your Honor. The first document will be from Book 5. I offer Document 30 as von Knieriem Exhibit No. 28. Document 31 will become Exhibit 29. Document 32 will become Exhibit 30.

I must ask a question about the next document. This is a document which has already been submitted as Dr. Bueteifisch's exhibit, and in order not to burden the record and in order to simplify matters technically, I did not incorporate that document in my Book again. It is only referred to in the index then.

THE PRESIDENT: Very well.

DR. SILCHER: In that connection I kept in mind the ruling of the Tribunal that in the defense of one defendant one might refer to any exhibit from any of the other defendants. I don't know, however, whether in this case Your Honors would not rather desire for me to supply the von Knieriem exhibit number to this document as well.

THE PRESIDENT: This will not be necessary. We have followed the

practice where you have the document in the book; then we have given it your own number. But here the document is in evidence and you have only an index reference to it, so you may omit giving it a number. It is before us.

DR. SILCHER: Yes, Your Honor. Then I ask that this listing in the index be considered only as a reference for the von Knieriem defense.

Document 33 will become Exhibit 31. The next document is No. 38, a supplement to Book 5.

THE PRESIDENT: Just a moment now ... Very well.

DR. SILCHER: This will become Exhibit 32.

The next is a group of documents which were submitted in the treatment of the general subject "Responsibility of the Vorstand." I am offering these as general defense exhibits. The first of these documents is in Book 4 for von Knieriem. Knieriem Document 27 was submitted for identification as Knieriem Exhibit 26. I offer that as Defense Exhibit No. 168.

THE PRESIDENT: Now, you had better withdraw that document as von Knieriem Exhibit 26 for identification and re-offer it as Defense Exhibit ...

DR. SILCHER: 168.

THE PRESIDENT: Very well. It will be so ordered.

DR. SILCHER: Knieriem Document 28 has been submitted as Knieriem Exhibit 27 for identification. I withdraw it as such and re-offer it as Defense Exhibit 169.

We now turn back to Book 5.

We turn now to Book 5, Document 34, Defense Exhibit 170; Document 35 will become Defense Exhibit 171.

The next document is again only a reference in the Index to a document already submitted, and not contained in this book.

Document 36, however, will become Defense Exhibit 172.

Document 37, will become Defense Exhibit, 173;

This concludes the submission of the remaining Krieriem documents, and the documents about the subject matter, "Responsibility of the Vorstand".

DR. SCHUBERT: (Counsel for the defendant Buergin): Mr. President

THE PRESIDENT: Tell us what book you have, so we can segregate them here.

DR. SCHUBERT: Mr. President I have to submit my Document Book 7 that has been translated for quite some time and should be before Your Honors. I also have Document Book 8 with a few remaining documents, which Judge Merrill approved. That Document Book is still being translated. I have the exhibits with me, and could turn them over to Your Honors and supply the proper numbers.

THE PRESIDENT: Do you have them in English?

DR. SCHUBERT: I do not have them in English, unfortunately, Mr. President, because the translation has not been completed.

JUDGE HEBERT: Dr. Schubert, I believe the Tribunal would prefer if you proceed with the documents which are available first in the processed form with us and then to consider all of these documents which are in the process of completion, - that is translation and mimeographing, - in one category just a little bit later. So perhaps if you would defer your Book 8 and present your Book 7 now, then we will revert to your order of business a little bit later.

DR. SCHUBERT: In Book 8 we have Document 87 as Exhibit 79.

Document 96 will become Exhibit 80;

Document 98 will become Exhibit 81;

Document 93 will become Exhibit 92;

Document 97 will become Exhibit 93;

Document 84 will become Exhibit 84;

Document 92 will become Exhibit 85;

Document 91 will become Exhibit 86;

Document 89 will become Exhibit 87;

THE PRESIDENT: Just a moment, doctor. Is that the affidavit of Major Ball?

DR. SCHUBERT: That is Exhibit 84; that is the affidavit of Major Ball.

THE PRESIDENT: Did you jump a page?

DR. SCHUBERT: That is on page 2 of the index, and is 14 to 16 of the book.

THE PRESIDENT: I have two pages alike in my book. I will just tear one out.

DR. SCHUBERT: I have just offered Document 89 as Exhibit 87.

Now comes Document 88 which will become Exhibit 88;

The next is Document 95 which will become Exhibit 89;

Document 83 will become Exhibit 90;

Document 94 will become Exhibit 91;

Document 99 will become Exhibit 92;

The next document number, 90, I am not going to offer in this Document Book. The affidavit that is here contained, of a French foreign worker, has a small mistake in its form, because the introduction was not in keeping with the ruling of the Tribunal. Therefore I again requested that the affiant make a new affidavit with a proper introduction, and have incorporated that affidavit, with the same text in my Document Book 8, in the proper form. I shall submit it later, together with the documents in Book 8. The last Document is 85. This will become Exhibit 93. This concludes the presentation of document from Book

7, and I shall take the liberty of presenting book 8 when it comes back from translation. I am informed that in view of various difficulties and the piling up of various document books, the translation branch has some difficulty, and that the translation department is going to get in touch with Your Honors.

JUDGE HEHRT: Just one moment, Dr. Schubert. Dr. Schubert, it may not be possible to wait until the documents are completely processed for their introduction, but we will advise you concerning that so if you would step aside now we will proceed with the other documents which are available.

DR. FLAECHESTER: (Counsel for the defendant Buete-fisch): Mr. President, first I want to take up those documents that I offered only for identification for technical reasons at the time, and offer them now into evidence properly.

Those documents were Buete-fisch No. 4, which was given Exhibit No. 171;

Buete-fisch Document 313, which was given Exhibit No. 134 at the time; and which was in the appendix of Document Book 8. It was Buete-fisch Document 270, which bore Exhibit Number 121, and which was in appendix to Book 8 of my document books.

In the appendix of Book 8, of the Buete-fisch Document books, there was Buete-fisch Document 179 which I offer as Exhibit 245, and in the same appendix of Book 8 there is Buete-fisch Document 315, which will be given Exhibit No. 248.

These are all of those documents presented to the Tribunal at the time. On the 5th of April I offered two supplemental Document book which I assume are before your Honors now. In the first supplementary book I shall begin with Buete-fisch Document 320. This is an affidavit of Dr. Henning, which will become Exhibit 247.

The next document, Buete-fisch 318, an affidavit of Dr. Wustrow, will be given Exhibit No. 248;

The next, Buete-fisch Document 316, an affidavit of Dr. Pier, will

become Exhibit 249.

The next document is Buete-fisch 331, an affidavit of Heinrich Buete-fisch will become Exhibit 250;

The following document, Buete-fisch No. 328, an affidavit of Wilhelm Bachmayer, will become Exhibit 251.

The next document, Buete-fisch 253, will become Exhibit 252. It is an affidavit of Hans Kehrl.

Then Buete-fisch Document 168, an affidavit of Hildegard Kuntze, will become Exhibit 253.

Buete-fisch Document 178, an affidavit of Giesen will be given Exhibit No. 254.

Buete-fisch Document 332, an affidavit of Paul Pleiger, will be Exhibit 255.

Buete-fisch Document No. 211, an excerpt from the Corporation Law will become Exhibit 256.

Buete-fisch No. 212, a commentary on the Corporation Law, with comments of Gedow, and others, will become Exhibit 257.

Buete-fisch 213, again an excerpt from the Corporation Law will become Exhibit 258.

Buete-fisch No. 214, is an excerpt from an article about the incorporation of enterprises according to new Corporation Law. This will become Exhibit 259.

Buete-fisch No. 215, a part of an excerpt from commentaries on Corporation Law will become Exhibit 260.

Buete-fisch 216 is a commentary of the well-known Corporation lawyer, Walter Schmidt, about the incorporation of new enterprises according to the new Corporation Law, and will become Exhibit 261.

Buete-fisch 217 is an excerpt from the law concerning Limited Liability Companies. This will become Exhibit 262.

Buete-fisch 309 will be an affidavit of Dr. Silcher. This affidavit will become 263.

Buetefisch 317 is an affidavit of a certain Dr. von Huhn; it will become Exhibit No. 264.

Buetefisch Document 330 is an affidavit of Dr. Schaumburg; this will become Exhibit No. 265;

Buetefisch Document 319 is an affidavit of Dr. Reiniges. This will become Exhibit 266.

Buetefisch Document 327 is an affidavit of Baron von Schroeder. I ask that this be accepted as Exhibit No. 267.

Buetefisch Document 333 is an affidavit of Dr. Hermann. This I offer as Exhibit 268.

This is the supplementary—

THE PRESIDENT: Dr. Berndt, it is time for lunch; we will rise until 1:30.

(Tribunal is recess until 1330 hours)

(AFTERNOON SESSION)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: We will hear either one of you, but not both, What is it Dr. Flaeschner?

DR. FLAESCHNER: (Counsel for Buete-fisch): Mr. President, the second supplementary volume has only a few documents in it which I intend to submit. The first is document 32, a Hoepke affidavit --

THE PRESIDENT: Dr. Flaeschner let me ask you. We said something this morning about allowing the Prosecution to offer some of its rebuttal. Is there any reason why you cannot wait, Mr. Sprecher, until counsel is through?

MR. SPRECHER: No.

THE PRESIDENT: Then you may go ahead, Dr. Flaeschner.

DR. FLAESCHNER: This Document 329 is offered as Exhibit 269.

The next document is Buete-fisch 322, a Strombeck affidavit, which will become Exhibit No. 270.

The next document, 334, a Heppe affidavit, is offered as Exhibit No. 271.

The next is a Steinle affidavit, Buete-fisch 321. That will be Exhibit 272.

The last document in this book is an affidavit by Cornelius, Buete-fisch 335. This will be Exhibit 273.

This concludes the presentation of the documents which I handed in before the 5th of April for processing.

Now, Mr. President, on the 3rd of May, I handed in some supplementary documents concerning those documents which the Prosecution put to my client in cross-examination, or offered during the cross-examination of witnesses and affiants. The originals are in the hands of the Tribunal, as I learned today. I believe the translation is not yet finished.

THE PRESIDENT: May I say to you and to all of your associates,

Counsel, that the Tribunal has cleared for processing, all of the documents that have been submitted through the office of Judge Merrill. They have been approved for processing. It is our desire now to go on through all of the documents that are available, and that applies to documents for the Prosecution and Defense alike, - and assign numbers to them. At the time we have completed that we will have something to say to you about documents that have not yet come in. We will probably do that before the day is over, but we will take care of that matter at that time. It will be taken care of in the general announcement that we will make respecting documents that are not processed which we propose to make when we have completed this call, and receive these documents in evidence that are already available.

DR. FLAECBSNER: Then, Mr. President, may I ask that the remaining documents may be introduced, that is, one document, Buete fish 344, a Wuerth affidavit, which I offer —

THE PRESIDENT: Now just a moment, Doctor, until we find out whether we have that document. Has that been processed and distributed.

DR. FLAECBSNER: I believe not, Mr. President. I handed it in only on Monday.

THE PRESIDENT: Very well then. Just let that matter pass until later this afternoon and we will call up the subject of all unprocessed documents.

Now if we may depart from the regular procedure we will permit the Prosecution at this time to offer what rebuttal documents it has available.

Is that your Book 94 now Mr. Sprecher?

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: Just a moment, until we locate the book. We are ready Mr. Sprecher, whenever you are ready.

DR. RUDOLPH DIX: I have just been informed that this Book 94 is not available to the Defense counsel.

MR. SPRECHER: Mr. President, I think it is possibly, because of a lack in the administration, the document book was delivered to the Defense Center this morning by 10:30, and I am certain that the Defense counsel can find their copies there.

THE PRESIDENT: Mr. Sprecher, likely you will be about here all afternoon. Would it inconvenience you if we go on to some of these Defense matters and after counsel for the Defense get their books, we will call you back again.

MR. SPRECHER: All right. One of my assistants here will get some Defense books and bring them in so there won't be any further problem about this.

THE PRESIDENT: That will be very helpful.

JUDGE HEBERT: Does Counsel for the Defendant Mann have any documents to present at this time?

DR. GIERLICH: Counsel for the defendant Mann, as well as his assistant, are at two Commission meetings at the moment, and I have just heard that Dr. Berndt may be here in half an hour, but hardly before that.

JUDGE HEBERT: Then we will pass on to Dr. Dix as counsel for the defendant Schneider.

DR. HELLMUTH DIX: Dr. Dix for Dr. Schneider.

THE PRESIDENT: Dr. Dix, bear with us just for a few moments until we get the books segregated here.

JUDGE HEBERT: Is there just one supplementary book, Dr. Dix?

DR. DIX: There is a rather small supplementary book. The photographs are only the supplement to the book.

THE PRESIDENT: I think everything is in order except that the supplement containing the photographs does not seem to have been delivered to my office. I have, however, the book, so you may go ahead.

DR. DIX: I shall offer first Document 286, an excerpt from the book. This will be Exhibit No. 232.

There follows 287, an affidavit of Borchardt, as Exhibit No. 233.

DR. HELLMUTH DIX: There follows Document 288, an affidavit of Janoschka which is Exhibit 234. I offer Document 289, an affidavit of Hauer as Exhibit 235. There follows Document 290, an affidavit of Diekmann, as Exhibit 236. Schneider Document 291, an affidavit of Schaumburg is Exhibit 237. Schneider Document 292, an affidavit of Hoffmann is Exhibit 238. Schneider Document 293, an affidavit of Schmid, is Exhibit 239. An affidavit of Krafft, Document 294, is Exhibit 240. Finally, Document 295, an affidavit of von Hoermann, Exhibit 241. There follows Schneider Document 284, an affidavit of Strombeck, Exhibit 242. This affidavit identifies the photos, pictures of sleeping rooms, living rooms, kitchens, theaters, and so forth, at Leuna for the foreign workers. There follows a document which is an official certification of a document with identification number 70 -- that is of the Archbishop of Munich and Freising. To this document I assign the Exhibit Number 243. There follows Schneider Document 297, a Pribilla affidavit, Exhibit 244. That is a confirmation of the identification number 74. For identification number 71, an excerpt from the Kogon book, I have not been able to get such a certificate. Therefore I shall use this document only for argumentation. There follows Schneider Document 298, an excerpt from the record, Exhibit 245. A Krauch affidavit, Document 299, Exhibit 246. I received two documents today. One of them in connection with the Schneider cross-examination and one which identifies the time of the photographs introduced. I do not know whether I should assign an exhibit number to these documents and hand them in later or whether I should talk to Judge Herrell first about admissibility.

THE PRESIDENT: We'll take care of that matter before the day is over with a general order.

JUDGE HEBERT: Do I understand that all of the documents for the defendant Ilgner -- all the outstanding documents -- are being processed and therefore you desire to be placed in the category of the other outstanding documents being processed. We'll take that up in

the general order.

DR. BACHEM: Yes.

JUDGE HEBERT: Then counsel for the defendant Duerrfeld.

DR. SEIDL: Mr. President, first of all I should like to offer to the Tribunal some documents which were put in evidence during the examination of Dr. Duerrfeld, but of which I had no translations at that time. I am referring to Duerrfeld Document 1450, Exhibit 125. I now have some translations and shall have them distributed. This is a letter from the defendant Ambros to Director Dr. von Staschen, dated 15 March 1941. The document should be included in Book 1 for Duerrfeld. Then in the examination of Dr. Duerrfeld we mentioned an organizational plan of the Auschwitz plant of Farben. This is Document 1516, accepted by the Tribunal as Exhibit 126. There were no photostats of this document available at the time. In the meantime we have had some prepared and I should like to hand the photostats of this organizational plan to the Tribunal at this time. This is of 1 July 1944. It shows the entire organization of the management at Auschwitz. It would perhaps be expedient to incorporate this chart in Book 1 for Duerrfeld too. Then there are only two more documents which have been received in the last few days which have not yet been translated. We shall speak to Judge Merrell for permission to have these two documents translated so that they may be treated in the same way as the other similar documents. That concludes the presentation of my evidence for the time being. I only have those two more documents to discuss.

JUDGE HEBERT: Dr. von Metzler, I believe you are next in order.

DR. VON METZLER: Your Honors, I am offering now in evidence some documents on behalf of the defendant Gajewski. I trust that Document Books 4 and 5 are in the hands of Your Honors. I offer first in evidence Gajewski Document 58, that is book 4. All these documents are in Book 4. I offer it in evidence as Exhibit 55. Next comes

Gajewski Document 59, Exhibit 56. Now, due to a technical hitch the inclosures, Appendix 2 and 3 of this document, have not been attached to the document in the book. Therefore, with Your Honors permission, I would present now these missing inclosures. May I proceed.

THE PRESIDENT: You may proceed.

DR. VON METZLER: The next document, Gajewski Document Number 60, Exhibit 57. The next document Gajewski 61, Exhibit 58. Then Gajewski 62, Exhibit 59. Gajewski Document 63, Exhibit 60. Gajewski Document 64, Exhibit 61. Gajewski Document 65, Exhibit 62. Gajewski Document 66, Exhibit 63. Gajewski Document 67, Exhibit 64. Gajewski Document 68, Exhibit 65. Gajewski Document 69, Exhibit 66. Gajewski Document 70, Exhibit 67. Gajewski Document 71, Exhibit 68. Gajewski Document 72, Exhibit 69. Gajewski Document 73, Exhibit 70. Gajewski Document 74, Exhibit 71. Gajewski Document 75, Exhibit 72.

Now we come to Document Book Number 5. It starts with Gajewski Document 76 which I introduce as Exhibit 73. Gajewski Document 77, Exhibit 74. Gajewski Document 78, Exhibit 75. Gajewski Document 79, Exhibit 76. Gajewski Document 80, Exhibit 77. Gajewski Document 81, Exhibit 78. Gajewski Document 82, Exhibit 79. Gajewski Document 83, Exhibit 80. Gajewski Document 84, Exhibit 81.

THE PRESIDENT: Where is Document 81?

DR. VON METZLER: I beg your pardon, Mr. President. This document, by a mistake, was annexed to the Document Book 4 as a supplement to Document Book 4, but it should be in Document Book 5.

THE PRESIDENT: Is it a --

DR. VON METZLER: It was a separate document which I submitted after I put in this Document Book 4.

THE PRESIDENT: Let's run through our -- yes.

DR. VON METZLER: It's Gajewski Document 84, Mr. President.

THE PRESIDENT: Just a moment. That has not been delivered to us.

DR. VON METZLER: Oh, I'm sorry then. So far I can not introduce it.

THE PRESIDENT: Very well. That will be taken care of, Dr. von Metzler, in our order that we will make later today.

DR. VON METZLER: Exactly, Mr. President. Mr. President, have you received Gajewski Document 83? That was also a separate document.

THE PRESIDENT: We have no loose and separate Gajewski documents. At least I have not.

DR. VON METZLER: Or is it in Book Number 5?

THE PRESIDENT: Just a moment, we'll see. Yes, it is in Book Number 5.

DR. VON METZLER: Thank you very much.

May I present now the evidence on behalf of the defendant Haefliger which I propose to submit now.

THE PRESIDENT: What should we have?

DR. VON METZLER: That is Haefliger Book 4, Mr. President.

THE PRESIDENT: Just one book?

DR. VON METZLER: Yes, one book. And I think — yes, one separate document. It's Haefliger Document 60.

THE PRESIDENT: Very well. We are ready.

MR. VON METZLER: I introduce Haefliger Document 48, Exhibit 41. Haefliger Document 49, Exhibit 42. Haefliger Document 50, Exhibit 43. Haefliger Document 51, Exhibit 44. Haefliger Document 52, Exhibit 45. Haefliger Document 53, Exhibit 46. Haefliger Document 54, Exhibit 47. Haefliger Document 55, Exhibit 48. Haefliger Document 56, Exhibit 49. Haefliger Document 57, Exhibit 50. Haefliger Document 58, Exhibit 51. Haefliger Document 59, Exhibit 52. And then I have submitted a separate Haefliger Document 60. I don't know whether this document is in the hands of your Honors. This document may become Exhibit 53. That, Mr. President, concludes the presentation of evidence on behalf of the defendant Haefliger.

JUDGE HERBERT: Counsel for the defendant Wurster.

DR. WAGNER: Your Honors, when I offered my Document 6, Exhibit 9, with the photograph album as an attachment, the prosecutor made a kind suggestion that some evidence be offered with respect to the time when the pictures were taken, and the President supported this suggestion. That is the only document which I still have to submit. This document, Number 330, I have at the moment only in German. It has not been translated yet.

THE PRESIDENT: Then withhold it Doctor and we'll take care of you also a little later in the afternoon. Mr. Prosecutor, are you now ready with your matter?

DR. DIX: Mr. President, I merely wanted to inform you that my

colleague Hoffmann is in the commission and can not appear here for that reason. If we could have a pause in the offering of the documents it would seem to me practical for me to take advantage of this interval to submit a few motions to the Tribunal, some of them for my client, others for the defense as a whole. It will not take much time.

THE PRESIDENT: Dr. Dix, would it inconvenience you if we let the prosecution get its documents in, its Book 94 in evidence, because we do want to get it before us so that we can begin to consider the subject of whether or not it is proper rebuttal, and we will hear you immediately after the prosecution presents its book, if that is satisfactory.

MR. SPRECHER: Mr. President, we have a few extra German books in case any of the defense counsel now don't have their copies. We brought some books into the room. This is then the documents in Prosecution Document Book 94, Rebuttal Book 3. The first document NI 14244 will become Exhibit 2223. NI 15252, Exhibit 2224. NI 15241, Exhibit 2225. NI 15043, Exhibit 2226. NI 14038, 2227. NI 11406, Exhibit 2228. NI 9724, Exhibit 2229. NI 11408, Prosecution Exhibit 2230. NI 10276, Prosecution Exhibit 2231. NI 10275, Prosecution Exhibit 2232. NI 9426, Prosecution Exhibit 2233. These are all documents which I think were given to Dr. Nolte under the arrangement previously explained to Your Honors. The next document is NI 6712 C, which will become Prosecution Exhibit 2234. NI 6712 A, Prosecution Exhibit 2234. The next document NI 15266 will become Prosecution's Exhibit 2236. The next document NI 15263 will become Prosecution Exhibit 2237. The next document NI 14033 will become Prosecution Exhibit 2238. The next document DC 160 will become Prosecution Exhibit 2239. The next document NI 15165, Prosecution Exhibit 2240. The next document NI 13576, Prosecution Exhibit 2241. The next document was already used this morning during the cross-examination of Herr Huenermann, and therefore I will skip over it to NI 14 —

THE PRESIDENT: Do you know what number it was given?

MR. SPRECHER: Yes, it was given Exhibit 2221, Mr. President.

The next document NI 14279 will become Prosecution Exhibit 2242. The next document NI 14083 will become 2243. The next document NI 14561 will become 2244. The next Document NI 14254 will become Prosecution Exhibit 2245. The next document NI 14250 will become Exhibit 2246. The next document NI 14073 will become Prosecution Exhibit 2247. The next document NI 15076 will become Prosecution Exhibit 2248. NI 15171 will become 2249. NI 15243 will become Prosecution Exhibit 2250. The next document was improperly listed in your book so far as the NI number is concerned. It should be NI 262 rather — I beg your pardon, NI 15262. And that will become Prosecution Exhibit 2251. Just to make the record clear that is an affidavit of Mr. Wolffsohn. And that concludes that matter.

DR. SIEMERS: Your Honors, I know that the Tribunal has suggested that objections to the rebuttal documents be submitted in writing. Please excuse me if in this one case I suggest that I be allowed to offer an objection at this time, the only reason being that I would need a prompt decision by the Tribunal because in case my objection is overruled I would have to ask that the affiant be called for cross examination.

THE PRESIDENT: Dr. Siemers, I don't know whether you are advised as to what we have announced in that regard. We're going to work tonight and the first order of business that we have is the matter to which you refer. We can't have a transcript of what is stated here now by that time but if you can give us a brief memorandum of your views, either in English or German, because we'll have an interpreter to help us out on the German, and get it into our conference room by eight o'clock tonight we'll undertake to try to pass on the matter. You can write in lead pencil, just on a piece of paper, so that we'll have it. This is not to be filed or processed. But, unfortunately, if we start letting these objections to the documents be made on the record we're handicapped then because it's two or three days before we can get the record, so if you will, some time during the day, give us a brief memorandum informally written, just enough to suggest your views, even if you do not have time to get it to us in English, we will have some one translate it for us at the conference. Can you do that?

DR. SIEMERS: Yes, I shall do that and please excuse me for asking for a prompt decision on this point. I am doing that only because it is a question of the Wolffsohn affidavit, Exhibit 2236, and I just wondered when I might have an opportunity for a brief cross examination. It would probably take only a few minutes. I might do that tomorrow or the next day.

THE PRESIDENT: We'll try to get a ruling tomorrow. I don't know what we will have to contend with tonight but we'll put in some time on the subject anyway.

DR. SIEMERS: Thank you.

THE PRESIDENT: Dr. Siemers, is the document, the Prosecution's

Document you refer to in Book 94? Is it among the affidavits or the exhibits just offered by the prosecution?

Well, we had not intended to impose upon counsel for the defense the burden of getting your objections to the documents now being offered by this evening. We were talking primarily about those already submitted, but if you get it to us and the prosecution can submit its views on a memorandum, perhaps we may be able to give some consideration to it tonight. I assume from the character of the prosecution's index that you have tried to obviate the necessity of making any detailed indication of the purposes of your documents. Is that right, Mr. Prosecutor?

MR. SPEECHER: Yes, but I think that index will fairly well indicate our purpose.

THE PRESIDENT: So, if you can get it to us, we'll see what we can do for you, Dr. Siemers.

DR. SIEMERS: I will be able to hand you the objection in writing by this evening.

THE PRESIDENT: What's your trouble, Mr. Prosecutor?

MR. SPEECHER: Mr. President, Dr. Siemers during the cross examination of the defendant Ter Iber the other day raised some question as to the signature on Document III 15227. Normally, that matter would be taken care of by a signature in the file, but since a question was raised we ask your permission to put in evidence three very short affidavits which will trace the history of that document from the time it was found in the Griesheim files until it was placed into the exhibit folder.

THE PRESIDENT: Do you have those affidavits ready?

MR. SPEECHER: Yes, I do.

THE PRESIDENT: Ready to distribute?

MR. SPEECHER: Yes, Mr. President.

THE PRESIDENT: Very well.

MR. SPEECHER: The first is an affidavit of Esther Glassman which is III 15283 which will become Prosecution Exhibit 2253.

The next is an affidavit of Miss Raphael, III 15285, which will become Prosecution Exhibit 2254.

They all refer, Your Honor, to Prosecution Exhibit 2196, NI 15227.

THE PRESIDENT: Let us have our copies so we can get the numbers on them and get them in our files.

MR. SPRECHER: My secretary will mark them in a group with the exhibit numbers and hand them up immediately.

THE PRESIDENT: That's fine. That's all right.

Dr. Dix, I think we're ready to hear you now.

DR. DIX: Your Honors, the first motion is the one which we were discussing yesterday, the motion which is necessary with respect to the affidavits of my clients, Mr. von Schnitzler and Dr. Lautenschlaeger. The motion is to the effect that the affidavits attached to this written motion - they are listed and are signed by me - all of them affidavits of defendants who did not testify on the stand and, as far as I know, will not do so - I ask that all these affidavits be stricken insofar as they seem to incriminate co-defendants. We were saying yesterday that the motion should be made now, but that the Tribunal would decide on this application only after the conclusion of the presentation of evidence.

THE PRESIDENT: Is that a written motion? Is that a written motion, Dr. Dix?

DR. DIX: Yes. I have just handed it to the Secretary General.

Then, another motion for my client. It is a question of the ruling of the Tribunal which was announced by Judge Morris on the question of the value of affidavits by defendants against themselves and specifically the statements of Mr. Tor Moor. I know that the rulings of the Tribunal are law for me and that if I were not able to bring out new facts which are not before the Tribunal I should have no justification for bringing the question up, but the ruling is based on the assumption that Schmitz was not referred to the American ruling about refusal to testify and that, in ignorance of this regulation or at least without be expressly referred to it, gave his testimony voluntarily. It is only this assumption on the part of the Tribunal that gives rise to the following statement. My client has informed me that two or three days before he made this statement, the

interrogator, Lawrence Linville, expressly called his attention to this regulation when the interrogation began. This must be on the record. We may assume that this record is in the hands of the prosecution. Acting on this assumption, I may submit the motion that the prosecution submit this record kept by Lawrence Linville. I may also reserve the right by Monday evening at the latest to offer into evidence a copy of this record because my client has just informed me that a copy of it can be found in the files of one of my associates. Unless this is a mistake, I would be fortunate enough to submit a copy in case the prosecution does not have the original and I may reserve this until Monday. My client has also informed me that Major Tilley, now Lieutenant Colonel Tilley, who appeared as a witness here, before his interrogation expressly called his attention to this regulation and the punishment which it provided for and threatened him with twenty years' imprisonment for failure to testify. So that there may be no misunderstanding I may remark that this threat was made in May 1945. I do not want to imply any false fact. At any rate, it was before this statement was made and certainly had some connection with my client's decision to testify, for one does not forget a thing like that if one is told "If you don't testify you'll get twenty years."

THE PRESIDENT: Dr. Dix, if you desire to present anything of the character suggested in your statement the Tribunal would suggest that it be put in the form of a motion and filed as a document in the case.

As to the request that you addressed to the Prosecution, the Prosecution can answer for itself and that is not a matter of concern to the Tribunal presently. If the Prosecution cannot or does not produce the document and you think you are entitled to some relief, you can come to the Tribunal on that and we'll consider it on its merits. I think that's all we need to say at this time.

DR. DIX: Mr. President, I beg your pardon. I am rather pressed for time. I brought this up now because I may have to call witnesses. If I don't bring this to the attention of the prosecution now, since the prosecution alone has the addresses of these witness, then I will certainly not be able to have this motion put into effect. For this reason I thought it important that this be brought to the attention of the Tribunal and the Prosecution, because in writing it will take at least until tomorrow.

THE PRESIDENT: Very well. You're certainly within your rights and it is proper to call the Court's attention to what you have in mind doing, but I say that a matter of that kind should be in the nature of a formal motion and we'll take notice of this statement that you intend to present it and whenever you do present it the prosecution must be given an opportunity to answer it and then the Tribunal will consider it.

DR. DIX: Mr. President, may I not mention the names of the witnesses so that the prosecution may

THE PRESIDENT: You may do that, but there's really no occasion to take our time for that, and I think I can rely on it that you gentlemen will agree — you usually do get along very well — and we'll see what will happen.

DR. DIX: Very well.

Now, a final matter- another motion for the defense as a whole. I may remark by way of precaution, as far as technically capable I have obtained the approval of my colleagues, but the possibility does exist that some one of the defense counsel may not have been present and in order not to violate the rights of my colleagues I should like to put it in this form, which is most likely true. I am presenting the motion in the name of the defense, as a whole, but I reserve the right for individual defense counsel, in case I am mistaken, to tell the Tribunal that he for his case does not approve this motion. With this reservation I now present this motion which I shall submit in writing. I may remark that it is composed of twenty-two pages and I have no intention of burdening the Tribunal by presenting the contents of this motion at this time. I shall merely refer to the written motion. I should merely like to mention very briefly how it came about that we decided to submit this motion and perform my duty by saying that Professor Wahl was the author of this motion but that, at his request, I also signed it as the spokesman of the defense. I don't want to claim the contents for myself because I think the contents are very scholarly and well founded.

Your Honors, when we came to Nurnberg, not for the I T Trial but for these trials before the American Military Tribunals we all assumed that these were American courts and that therefore the legal principles of American law, and particularly the principles of the American Constitution, would prevail. This opinion was strengthened by the judgment against the former Field Marshal Milch in which case the court - and I am quoting from memory but it is essentially correct - said: "This is an American court and the deep-rooted principles of the Anglo-Saxon world are valid for it." Suddenly, there came the opinion of EKGUS which denied this and spoke of an international court. Then came the Flick Judgment which again, on the basis of a similar motion to this one, said that it was a Control Council Court. So that, with respect to the legal basis of this court, we are res-

ing on a foundation of contradictory opinions of the highest authorities. We could not have simply overlooked this state of affairs or relied on our own knowledge of the subject, and we began to contact legal authorities of your country. The consequences of this exchange of ideas was the motions introduced in the Flick trial which are at least similar to the motions which the American lawyer Robinson submitted in the Krupp trial where he was a defense counsel. We have obtained these motions from the Krupp trial. They are so much in American legal language that it is impossible or at least would be wrong to retranslate them into our German or continental way of thinking. We decided, of course, *mutatis mutandis*, the obvious differences between the Krupp Case and this one, to adopt these Krupp motions and offer them here. They will be handed in through the prescribed channels - Secretary General and Defense Center - in English. I cannot hand them in now because they are not quite ready, but I wanted to announce them.

Independently of that, I have here the statement prepared by Mr. Wahl and offered by me in the name of the defense with the reservation I mentioned, the motion dealing with the problem of whether the actions under indictment here, considering both American law and international law, are subject to the jurisdiction of this court and whether this court is set up under the principles of American Military law. The question is answered in the negative by the defense and the motion is made and explained correspondingly and I may refer to the written statement. I may consider that this motion, which was written by Wahl and signed by me, will be handed in together with the motions to reach the Secretary General and the Defense Center in the next few days, the spiritual author of which is the Robinson motions in the Krupp trial, and these two motions may be part of the record in this case.

THE PRESIDENT: Very well, Dr. Dix.

DR. KRAFT (Defense Counsel for defendant Kugler): Mr. President, the witness von Silvinyi, who is still to testify for the defendant Kugler, lives in Austria. There have been technical reasons which prevented him from appearing until now. There is a possibility, however, that he may be in Nurnberg over the weekend and I should like to reserve the right in that event to call him either on Monday, the 10th or Tuesday for a brief examination.

THE PRESIDENT: How long do you contemplate it will take to present the evidence of that witness, counsel?

DR. KRAFT: It was the intention of Dr. Henze to examine him himself. As far as I recall, he had expected that it would take one half or three quarters of an hour.

THE PRESIDENT: Very well. May I suggest to you or your co-counsel to keep in touch with Judge Hebert in regard to that situation and we'll see what we can do.

DR. KRAFT: Yes.

THE PRESIDENT: Do Counsel for defense know, is Dr. Berndt, as well as Dr. Hoffmann, engaged in the Commissioner's court?

DR. LUELLER: They are both in the Commission.

THE PRESIDENT: Do you have any information as to how long they will probably be engaged there, counsel?

DR. LUELLER: It should be finished by the recess, but I will go and inquire.

THE PRESIDENT: That's not necessary now. Do any other of the Defense counsel, who are here present, have any documents to submit to the Tribunal that have been processed and should be in our hands now? I'm not speaking of Dr. Berndt or Dr. Hoffmann. I know the situation with respect to them, but do any of you other gentlemen have any documents that have been processed?

DR. NATH: If the Tribunal approved we could offer the documents for Dr. Ilgner. We have the original documents here. We would have to put the exhibit numbers in the document book later when the documents have been translated.

THE PRESIDENT: We have in mind a method of handing that. We're just waiting until after the afternoon recess in the hope that more of the defense counsel would be present so that you would be advised of it. I think perhaps that that would be more confusing to us than to handle it in the way we have in mind, counsel.

The Tribunal will at this time recess until 3:15.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The Tribunal has learned that Dr. Hoffmann and Dr. Berndt are still engaged down before the Commissioner and will not be able to be here for the remainder of the afternoon. As a consequence, we shall necessarily have to pass over the receiving of the documents of their clients until tomorrow forenoon. In the meanwhile, however, we have received some more documents some of you gentlemen may be interested in.

We have now a supplement 2 to Document Book 14 of the defendant ter Meer; Supplement to Document Book Hoerlein No. 6; Document 1-B for the defendant Ambros (That one, of course, we cannot handle today); Appendix 2 to Document Book 15 of Gattineau; Document 120 for the defendant Kuehne; Supplement to Document Book 4 for the defendant Gajewski; Supplement 2 to Document Book 2 Degesch; and Supplement 4 to Book 9 of the Defendant Krauch.

Now, any of you gentlemen that are interested in the presentation of those books or those documents may now do so, if you are ready.

DR. VON METZLER (For Krauch): Mr. President, if I correctly understood, you have before you a Gajewski document.

THE PRESIDENT: I think that is correct, counsel... Yes, that is Document 84, counsel.

DR. VON METZLER: Eighty-four?

JUDGE HEBERT: That is the document which was missing earlier when you made the earlier presentation.

DR. VON METZLER: Yes... one moment. That is Document Book 4.

JUDGE MORRIS: Supplement to Document book 4.

DR. VON METZLER: It should be Supplement to Document Book 5.

THE PRESIDENT: Very well. We will correct that; and can you give us the exhibit number?

DR. VON METZLER: I am sorry, Mr. President, my secretary gave me the wrong --

THE PRESIDENT: Perhaps the secretary can supply the numbers.

DR. VON HETZLER: Yes, well she is not present here. The last exhibit number was... Then this may become Exhibit 81.

THE PRESIDENT: Thank you All right. Are any of you other gentlemen ready to present any of these documents that I called a moment ago?

HELMUT DIX (For defendant Schneider): I have two more documents that have been admitted but that have not yet been mimeographed and translated. Am I to introduce them as exhibits, now?

THE PRESIDENT: Not at this time, Dr. Dix.

DR. ASCHENAUER (Counsel for Gattineau): May I offer the documents for my Supplement 2 to Book 2 for Gattineau? I offer Gattineau Document 107 as Exhibit 185; Gattineau Document 108 as Exhibit 186; Gattineau document 109 as Gattineau Exhibit 187. Those are the three documents.

Mr. President, if nobody else has anything to offer, I have a request to make. Because of some trouble with my jaw I cannot be present tomorrow or the next day. Therefore, may I offer my other documents, as an exception today?

THE PRESIDENT: Well, counsel, we would be very happy for the privilege of accommodating you, but let us go through this call here, and I believe that you will find we have disposed of this matter then.

Dr. Boettcher, did you wish to offer a document?

DR. BOETTCHER: Mr. President, you mentioned another document for Krauch. This is Krauch Document 155. I have already offered that document as Exhibit 206.

THE PRESIDENT: Thank you. Now, we still have Supplement 2 Dogesch; that is Dr. Berndt. We will necessarily have to lay that aside until tomorrow. Supplement to Hoerlein Book 6; Supplement to Dr. ter Meer's Book 14; and one document Kuehne No. 120. If counsel for them are not present, we will — Dr. Nath?

DR. NATH (Counsel for defendant Kuehne): Mr. President, during the recess I talked to Judge Hobert to the effect that I took over Dr. Kuehne's

defense, and I have today submitted a motion to Your Honor for approval. Before introducing that document, I should like to talk to Dr. Kuchno, and I asked that I be permitted to offer this document on Friday.

THE PRESIDENT: Very well. Now, gentlemen, that seems to be about as far as we can go today. Several of you have expressed concern about offering documents that are not presently available because they have not been translated and mimeographed and distributed. Now, we are going to state on the record what we concede to be a reasonable solution for that problem.

Regardless of our schedule otherwise, the first order of business, next Monday afternoon will be to receive all outstanding documents that counsel for Prosecution and Defense may desire to offer to this Tribunal. We shall call counsel for the Defense in the order in which we are accustomed to calling them here, on this order that Judge Hobert worked out with you gentlemen.

If, in the meantime, the documents have been processed and are available, you may then introduce them.

If they are not processed and available, you may then state on the record in open court your document number and give us a very brief statement of what the document is, and we shall then admit it in evidence, notwithstanding the fact that it has not been processed, subject to objections. And after that has been done we will fix a time within which all objections must be made to the Tribunal.

So there will be one final roll call for the introduction of evidence on behalf of the Prosecution and each and every defendant, at the afternoon session of next Monday. We shall receive the documents that are ready to be submitted and permit the documents that have not been processed to be offered with an identification number to be announced in open court: a brief statement of the contents of the document.

5 May-A-FL-22-4-Schwab (Int. Katz)

Court No. VI, Case VI

We shall then give it an exhibit number in your series and admit it in evidence, subject to objection of the opposing counsel. When we have done that, we will fix the time and the manner within which those objections must be lodged with the Tribunal.

Now this is important, and if there is any uncertainty in the minds of any of you gentlemen that we meet by what I have tried to say, do not hesitate to ask questions now, and let us have the procedure definite and certain. That applies to the Prosecution as well as counsel for the Defense.

May I add that that is the final roll call for the introduction of evidence in this case, and when your client has been called and you have offered your documents that are processed as well as those that you have not been able to have processed, the case will be closed as far as that defendant is concerned, with respect to the introduction of evidence.

We think this will give you time over the weekend to survey the situation and bring this presentation of the evidence to an orderly termination.

Now, please understand that as to these documents where counsel is absent and cannot present them this afternoon, that have been distributed, we shall take up those in the orderly procedure in the morning. If counsel is then present, we will receive those documents. If some of them are still before the Commissioner, we will deal with that subject in the morning and do the best we can under the circumstances.

Now, I will inquire again: Do you gentlemen all think you understand the announcement that I have made, because it does pertain to the closing of the evidence, and we would deem it unfortunate if anyone should come in afterwards and say that he did not understand what we said on the record.

DR. RUDOLF DIX: I have three questions, Mr. President. First, did I understand this ruling that you announced just now correctly, that the conference in chambers that was planned for Monday evening at eight o'clock is no longer necessary as a result of your ruling?

THE PRESIDENT: We so consider it. I may say there will probably be a conference in chambers, but we will be otherwise engaged, I think.

DR. RUDOLF DIX: I am sorry about that. Mr. President, the second question. You spoke only about documents, but there are two other problems to be solved in regard to time. One of them is the calling of defendants to the witness stand insofar as the Defense Counsel concerned desire it in answer to rebuttal; and the second is the problem that there

are some witnesses outstanding. I wanted to ask Your Honors at what time you intend to take care of those two matters.

THE PRESIDENT: We intend to take care of those just as rapidly as we can get to it. We will be here tomorrow morning at the regular time and transact all the business that we can. If any counsel wishes to call a defendant to the stand for a matter that is proper, tomorrow or the day after, we will be here for that purpose. This has nothing to do with anything except the matter of closing the documentary evidence.

I think you all know that we are already advised of a witness or two that we are to hear as soon as they get here. I think Judge Hebert can enlighten you as to the situation on witnesses.

JUDGE HEBERT: Dr. Hoffman has one witness who is to be heard on Monday. Dr. Berndt has one witness who is to be heard on Tuesday. On Friday morning, Dr. Silcher is to present the lantern slides and the documents on the basic information. And Dr. Nath has one matter which he has to take up to conclude his case on Friday. And I believe that that is a list of the outstanding matters as of the moment.

DR. RUDOLF DIX: One moment. That would then permit me to conclude that the Tribunal intends to close its open court sessions on Monday evening -- Tuesday evening, I beg your pardon; I means to say Tuesday.

THE PRESIDENT: It means that just as soon as the witnesses that we have promised to hear have been produced and heard we do expect to close, except, perhaps, as to some formal matters of affording an opportunity to object or present objections to documents. We are going to survey that field and determine by next Monday afternoon just when and how we are going to handle that. We will get the documents in first, and then we will determine what seems to be the proper way to hear objections to those that have been admitted, when the documents were not available at the time they were offered.

DR. RUDOLF DIX: One more thing, in my capacity as Defense counsel for Dr. Schmitz. In view of your intentions, I merely ask you to take into account that I may have witnesses in regard to the subject matter treated a short while ago. Whether I call them by Tuesday —

THE PRESIDENT: Dr. Dix, that is an interlocutory matter. The Tribunal will not know what it wants to do with respect to that until we get your formal petition and afford the Prosecution an opportunity to make its showing. If it calls for the resolution of some fact, we will deal with that. That is aside from the trial proper, anyway. It is not evidence in the case directly. It relates to a particular defendant with respect to a matter of particular scope.

You can get your motion on file, and we will deal with that independently.

DR. RUDOLF DIX: Thank you very much. May I make one more remark? My colleague von Metzler has just now, quite properly, pointed out to me that if the defendants are to be called to the witness stand tomorrow, it would be necessary that their Defense counsel should know what the ruling of the Tribunal would be on the objections which were raised before the Commissioner and in regard to which I permitted myself to hand to Your Honors a list yesterday. We would be very grateful to you for a clarification of this question. And also objections to rebuttal documents. There are two types of objections that you are clear on.

THE PRESIDENT: We well understand that. With reference to the first matter, to whom did you hand this memorandum that applies to the cross-examination in the Commissioner's record?

DR. RUDOLF DIX: I handed that during the open session to the Secretary General here.

THE PRESIDENT: Is that in German?

DR. RUDOLF DIX: Yes, it was in German.

THE PRESIDENT: Mr. Secretary, will you see that we receive that this

evening, even if it be in German, so that we can use it tonight?

Now, Dr. Dix, we can well understand that whether or not it would be proper under any circumstances to recall a defendant to the witness stand with respect to matters relating to the question of cross-examination and the documents on rebuttal is necessarily contingent on what is done with those matters. I may say to you that if the ruling of the Tribunal affects that matter, we will take it up with you and work out something so that we shall all understand what we are doing in that regard. We do wish to urge on you the matter of getting to us tonight, before our conference, the memorandum with respect to the documents in Book 92 — 93. And in order that you may have a timely opportunity to do that, we are just about now to recess until nine o'clock tomorrow morning, so that it will give you a little bit of time to get at that matter and situation so that we can consider it at our conference tonight.

DR. RUDOLF DIX: I beg your pardon, I could not quite understand what memorandum you mean, Mr. President.

THE PRESIDENT: With reference to the documents in rebuttal offered by the Prosecution. We asked you yesterday to get us an informal memorandum. I think your associates perhaps very generally understand that situation, because some of them are beginning to come in. I received one at the recess.

Now, is there anything further that needs to be said by Counsel before we recess until tomorrow morning?

Permit me to say at this time that the same procedure will follow with reference to the Prosecution rebuttal documents in its so-called Book 94, except it will be 24 hours later. You will have until the next night to get your objections in to them, day after tomorrow evening.

DR. DIX: Mr. President —

THE PRESIDENT: I mean, tomorrow evening. You get them in today with reference to the books now under consideration, and tomorrow evening for the Book 94. You will have 24 hours more.

DR. DIX: Yes, quite, Mr. President.

In regard to the objections to the rebuttal documents, I understand the memorandum to mean that it was desired for each one to inform the Tribunal individually what objections he had to raise. If that were centrally directed, by way of my office, it would only cause a delay because I have no independent judgment except in my own case. In other words, all people concerned know that they have to inform the Tribunal individually as to these objections.

THE PRESIDENT: I think that is very generally understood. I notice nods of approval on the part of your associates.

DR. DIX: I have one more thing. It is now 3:45, and I have just had something handed to me that I cannot read in this haste, but I think what is intended is this: In order to expediate matters, the defendants should be given an opportunity to be able to check over today these documents from the document center that they have not yet

seen, and therefore I ask Your Honors to rule that the defendants be taken to Room 316 today, so that they can look over the documents. We have to make use of every available minute now.

THE PRESIDENT: That is entirely reasonable, and the Marshal will please arrange with the prison authorities to see that the defendants may remain in the building to visit Room 316 to inspect documents for the balance of the day, until their time to go this evening.

Perhaps we may have some time available tomorrow for a like purpose if you need it.

Now, if there is nothing further, I said a moment ago we are now about to recess until 9 o'clock tomorrow morning. We have recessed.

(TRIBUNAL IN RECESS UNTIL 0900 HOURS MAY 6, 1948)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948	Rudolf Schmidt	13093-13133
→ 5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
→ 5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savelsberg	14387-14424
11 May 1948	Karl Runscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494

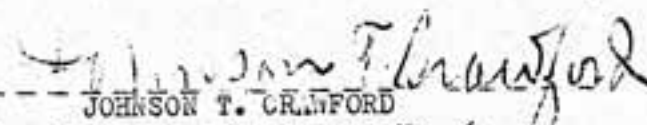
During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11468
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of hearing before a Commissioner
for Military Tribunal VI, case VI, in the matter of
the United States of America against Karl Krauch et
al, defendants, sitting at Nurnberg, Germany, on
5 May 1948, Commissioner Johnson T. Crawford, presiding.

THE MARSHAL: The Commission for Tribunal VI is now in session.

MR. ANCHAN: If your Honor please, the defense have requested that
Dr. Struss be cross examined as a prosecution witness with respect to
Exhibit 1876, which is NI-12610. That Exhibit consists of a lengthy
interrogation of Dr. Struss under the date of 27 March 1947, and there
is a covering affidavit in connection with that interrogation in the
exhibit. That has been offered in evidence, as I say, as Exhibit 1876,
and the defense has indicated a desire to cross examine Dr. Struss with
respect to that exhibit. In addition, I am informed that the defense
would like to cross examine Dr. Struss with respect to Exhibit 1941,
which is NI-14273. That is a chart of Sparte II which was offered
in evidence. In connection with Exhibit 1941, there is a covering
affidavit of Dr. Struss which is Exhibit 1942 and bears NI-14499. My
understanding is that the defense are ready to cross-examine with
respect to the exhibits I just mentioned, and with that, I ask your
Honor to swear the witness and turn him over to the defense for cross
examination.

DR. ERNST STRUSS, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness, will raise his right hand and repeat
after me:

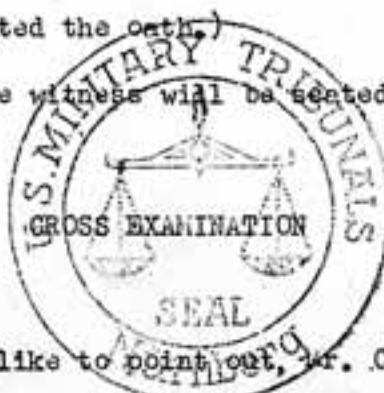
I swear by God, the Almighty and Omniscient, that I will speak the
pure truth, that I will omit and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: The witness will be seated. The defense may
examine the witness.

BY DR. BERNDT:

Q. I would first like to point out, Mr. Commissioner, that I
myself would like to cross examine the witness only in connection with



5 May-M-JP-7-2-Gaylord (Int. Reischer)
Court VI Case VI

Exhibit 1876. I really don't know whether this witness is also supposed to be examined in connection with another exhibit. My colleagues, Dr. Hoffmann and Dr. Henze, don't know anything about that either. Now may I ask you, Dr. Struss, whether you have Exhibit 1876 at hand?

A. Yes, I have the English as well as the German version before me.

Q May I ask you witness, whether you have carefully read this affidavit and the record of the interrogation again recently, and whether you wish to make any additions or corrections in connection with it?

A I only saw the affidavit or the interrogation, which is very lengthy after my examination on 21 November. I believe the date is correct, but it was only after 21 November that I was able to look through it thoroughly and I would like to make some supplementing comments now.

Q Yes, please do that.

A A long interrogation is attached to my affidavit dated 21 November, 1947. The interrogation was conducted about eight months previously, that is, on 27 March 1947. This interrogation was conducted in English, and the record of this interrogation also was written in English. I know English well enough so that I understand questions put to me in English in most cases, but I must say that the answers which I am able to give in English must be very simple, and therefore, an interrogation held in English is difficult and rather taxing for me.

The interrogation lasted several hours, and if I am not mistaken, on this very morning when the interrogation was held, I had already been interrogated in connection with another matter for several hours. I saw the transcript of this interrogation which is very long, as far as I remember for the first time on 21 November. That is to say, eight months after the interrogation took place. In the meantime, a lot of interrogations took place so that I am not able to remember the details of the interrogation dated 27 March very well. I was only given an opportunity after 21 November to look at the long transcript, to read it, and ponder over it. In the course of this, I found out that the transcript in various points does not reproduce my answers in the form in which I would have made them if I had been able to give my answers in my own time, and if I had been

able to think my answer over carefully. Now I should like to make the following comments.

First, my second, and at the same time, my last visit to Auschwitz was made at the end of May, 1943. In the course of this visit, my opinion was confirmed that mass cremation of people that had been killed before, were taking place in the concentration camp Auschwitz which was several kilometers away. I cannot remember whether, at that time, I already found out that the victims had been gassed before being cremated. I know for certain that I discussed the information I had gathered about mass cremations in the concentration camp of Auschwitz with several gentlemen after my last visit to Auschwitz, and this visit took place at the end of May, 1943.

The second point. I am certain that I intended to speak to Ter Meer and Ambros concerning these matters; but today I believe that such a discussion never actually took place, and probably the reason for this was that these two gentlemen, during the months following this visit, were not available for a private conference. As far as I remember, during the summer of 1943, Dr. Ter Meer was absent a great deal. At the beginning of September he went on a trip to Italy. It was always difficult to contact Dr. Ambros during this time because he was on trips continually. I also traveled frequently, and during this time I was also on leave for several weeks.

The third point I want to make. The opinion that I hold now, that I did not have an opportunity to discuss these matters with these two gentlemen in private conferences, is confirmed by the fact that I cannot remember, in any way, any contents of any such discussions that I might have had. If I really had had such a conference with these two gentlemen, I am sure that the answer that they would have given me, or at least the contents of such discussions would have stuck in my memory in some way.

The fourth point. My thoughts at the time certainly were conscious of the fact that if I had informed these two gentlemen,

the situation would not have changed in the least. It would not have been possible to level a complaint, for if this had been the case, all people that had been talking about the cremations in the concentration camps would certainly have been sent to a concentration camp because of spreading rumors that were inimical to the Reich. Furthermore, the cremation of human beings in the concentration camp of Auschwitz had absolutely no connection with the Farben plant in Auschwitz. In my opinion, these human beings who were cremated in the concentration camps were certainly not workers of the Farben plant in Auschwitz, but they were people who were transported to the camp from somewhere else.

The fifth point. In my interrogation with the added affidavit NI-12610, I stated first of all that I did not remember to whom I gave any information about the occurrences in Auschwitz. I repeated "I do not remember this statement" once more. I answered to further urgent questioning that the gentlemen Ter Meer and Ambrose were among the gentlemen, with whom I might possibly have talked about this information which was given to me. My last answer was given in English. "I do not remember, but I think I did, my best recollection is that I spoke with Ambrose, Ter Meer, Lochr, and Lammert."

Q Dr. Struss, may I ask you whether you ever signed the interrogation dated 27 March 1947?

A As far as I know, well, I did not sign it immediately. I initialled all the pages, but eight months later, on 21 November.

Q 1947?

A Yes, 1947.

Q Yes, that would be correct, according to the photostat I have before me. Then, do you know in which months of the summer of 1943 Dr. Ter Meer was on leave?

A Well, I am not sure, but since both of us did not go on leave at the same time, and since I had my leave in July, Dr. Ter

Meer probably went on leave during the month of August.

Q In the interrogation you also mentioned a so-called report of the Building Committee. Were these reports identical with the so-called Weekly Reports as issued by the Farben plant in Auschwitz?

A I do not know anything about these weekly reports. I assume that they were completely internal reports, while officials of the local authorities usually attended the meetings of the Building Committee or received reports of it. The meetings of the Building Committee occurred at longer intervals.

Q I beg your pardon for interrupting you. I do not need all of these details. Give me a very clear statement to the effect whether or not these weekly reports were identical with the reports of the Building Committee.

A No, they were not.

Q Were any of these reports of the Building Committee sent to Frankfurt, to the TEA office there?

A Reports of those sixteen or seventeen meetings were regularly sent to the TEA office in Frankfurt.

Q Were any of these reports on the matters of this Building Committee submitted to Mr. Ter Meer, and did he ever read them?

A I have testified concerning this before. I believe I said that according to Dr. Ter Meer's usual manner of working, I consider it impossible that Dr. Ter Meer read these reports. By consulting the office manager, Mr. Lammert, I found out that he received these reports at the TEA office, and submitted them to me regularly. Mr. Lammert does not believe that he submitted them regularly to Mr. Ter Meer.

Q Can you please tell me where these Building Committee reports were filed?

A They were filed at the TEA office, and not in the office of Dr. Ter Meer which was on the floor above.

Q Perhaps you remember that you said, in your interrogation, on page 5, "it is possible that the reports were filed in the TEA office or in Dr. Ter Meer's office."

A You will probably understand why I made such an ambiguous statement in the course of my interrogation, because I myself had nothing to do with filing of documents or anything of that sort. But, in the meantime, I asked the office manager, as I said before, and I was convinced that they were really filed in the TEA office.

Q That's all, thank you. The last question in this connection. Did the TEA get any reports on the reports of the Building Committee?

A No, never.

Q Will you please turn to page 10 of your interrogation?

A German or English?

Q Please look at the German copy. Would you turn to page 6 instead of page 10, page 6 of the German copy. There, in the middle of the page, right below the words "page 10 of the original", there you will find an answer, and I quote:

"The labor situation was the most important problem." These words are underlined in the copy that I have. May I ask you now, did you yourself underline these words and just what did you mean by the sentence?

A I could not have done the underlining since I am not the author of this document. What I meant to say with this sentence is the following: If one wants to build a huge, new plant, the most important things are: a plain which cannot be flooded, good water conditions, good transportation conditions and the easy availability of coal and other raw materials for the site. Now, after all these questions had been solved in an exemplary manner in Auschwitz, now, of course, the procuring of common labor, and also white collar workers, became a problem of major importance. That would have been a problem not only in Auschwitz, but at any other building site in

Germany at that particular time.

Q Did the technical committee, the TEA, have anything to do with the procurement of labor?

A No, not with the procurement of labor.

Q Will you please turn to page 15 of the original, or page 10 of the German translation. There it reads that you had heard about killings in the concentration camp of Auschwitz. Now, may I ask you, did you undertake any steps at all in order to verify this information that you got?

A Yes, I did everything that was possible at the time. First, I listened to foreign radio stations, in order to find out whether news of these things had already got into foreign countries. But I had no success whatever.

I commissioned one of the gentlemen of Farben who went to Spain, and also another gentleman of Farben who made a trip to Switzerland, to find out during their stay in these foreign countries whether or not people there knew anything about atrocities in concentration camps. These gentlemen came back and told me that nobody knew anything abroad.

Q Can you perhaps give me the names of these two gentlemen?

A The gentlemen who went to Switzerland was the Prokurist of Farben, a certain Flottow, but I cannot remember the name of the gentleman who went to Spain.

Q According to your statements, you found out, in 1942 by speaking to a laborer on a train trip, and in 1943 you heard from an engineer about cremations and atrocities in the concentration camp Auschwitz. Now, except for these two cases, did you ever hear anything else about these atrocities?

A No, never. In this interrogation, I already stated that I asked all the gentlemen who came to me from Auschwitz whether or not they knew anything about cremations and killings in the concentration

5 May 48-44-4B-9 & 10-7-Ramler (Int. Reischer)
Commission - Farben

camp Auschwitz. They always answered in a negative or at least they
evaded the question.

Q In the statements that you made today here, also in the interrogation and in the affidavit, you told us that you had investigated the whole matter once more you found out that you did not discuss the atrocities with Dr. Termeer -- the atrocities about which you found out after your visit to Auschwitz?

A Yes, that's what I said.

Q Now we know that in November 1947 you spoke to Dr. Termeer when he was there on leave from Nuernberg. Now may I ask you, did you in the course of a conference in Griesheim in November 1947 -- did you also touch upon these matters in a conference with Dr. Termeer?

A Yes, but only very briefly, with a very, very few sentences. The whole discussion didn't even last two minutes.

Q Can you give me any sort of details about this little discussion?

A No, I'm sorry, I can't but it was like this: In those two days I had very taxing and technical conferences with Dr. Termeer and I certainly can't be expected to remember and to reproduce every word, in detail. I believe definitely that it also may have happened in the very way that Termeer mentioned in his examination here before the court.

DR. REEDT: Thank you; no further questions.

DR. HOFFMANN: Dr. Hoffmann for Ambros.

DIRECT EXAMINATION (Continued)

DR. ERNST STUSS

BY DR. HOFFMANN: (for Ambros)

Q Witness, in connection with the Document NI-12610 that you have at hand, I would like to ask you the following questions: I only have a very few questions. I shall only touch upon the subject: about 1943, after you knew, as you stated, that gasings and subsequent cremations had taken place, or were taking place.

In connection with this, you said in your interrogation that you had also informed or, shall we say, that you told Ambros about these rumors or these facts, as you say. And now my question is: Can you please tell me the exact hour when you were supposed to have told it to Ambros?

A Well, I believe I gave a detailed statement in connection with this today. Now, first of all, I would like you to consider that this question which did not come to my mind for four years -- that this question was put to me in the course of a very long and very difficult cross examination and I have just said today that I don't even believe that I told Dr. Ambros about that at all, simply for the reason because I was not able to reach him at the time.

Q Witness, I have definitely understood what you said before but will you please permit me this small question. Now answer first question is, can you tell me the exact hour at which you spoke to Ambros?

A No.

Q Can you give me the exact day and the exact year?

A No. But to this I would like to comment the following: I probably would have a better possibility of telling you if I had my notes but of course my notes were taken away from me a year ago. But even if I had those diaries I couldn't possibly give you either the day or the exact time.

Q Now, if you are not able to give us either the day nor the exact time, how can you maintain this statement that you told Ambros about that at all?

A I don't understand that. I think that I gave you a complete answer: No.

Q Thank you.

DR. HOFFMANN: Now, Mr. Commissioner, I am now deputizing for Dr. Seidl, who is defending Dr. Duerrfeld.

Q And in connection with this, witness, I would like to ask you; Did you ever hear anything from Dr. Duerrfeld about mass cremations in the concentration camp, or gassings?

A No, never.

Q Did you perhaps talk to him about these matters after you had been informed that these things were going on?

A I don't think I could possibly have had an opportunity to do that. That is to say, I must say no.

DR. HOFFMANN: Then I have no further questions. Thank you.

CROSS EXAMINATION

DR. ERNST STRUSS

BY MR. AMCHAL:

Q Dr. Struss, when Dr. Berndt on cross examination asked you whether you had any corrections or changes to make with respect to Exhibit 1876, NI-12610, you testified as to changes. Now, do I correctly understand, Dr. Struss, that you were reading from a prepared written statement when you testified to the changes?

A Yes, that's correct.

Q Did you show that prepared written statement to Dr. Berndt or any other Defense before you took the witness stand today?

A Yes, I did.

Q So we're entirely clear about this —

DR. HOFFMANN: I would like to ask Prosecutor also to let the witness state to which other Defense Counsels he showed it.

Q Will you please indicate with which Defense Counsel you discussed your prepared statement that you read this morning?

A I did not give my statement to any one of the Defense Counsel. I only discussed it with Berndt and Dr. Hoffmann.

Q Did you show them the prepared statement that you read into the record this morning?

A Yes, I did.

Q And you discussed that prepared statement, is that right?

A I'm sorry I didn't understand the question.

Q I say: And you discussed that prepared statement with Dr. Berndt? And, too, Dr. Bornemann? Is that right?

A No, I didn't. Yesterday afternoon. But I believe I only discussed it with Herr Bornemann, but the statement, of course, I wrote up myself.

Q I'm afraid I don't understand you, Dr. Struss, or you don't understand me. Let me see if I can put the question simply. We agree that this morning on cross examination by Dr. Berndt you read from a prepared written statement, is that right?

A Yes, that's right.

Q And we also agree that you discussed that written statement with Dr. Berndt and Dr. Bornemann before you took the witness stand this morning, is that right?

A Well, I don't believe I did that this morning. I think it was yesterday, but I suppose that is the same thing.

Q That's right. Before you got on the witness stand?

A Yes, that's right.

Q Now, do you know, Dr. Struss, that you were being called for the purpose of having the defense conduct your cross examination? Did you know that?

A I assumed that the Prosecution would cross examine me on this question.

Q Who told you that the Prosecution would cross examine you today?

A One of the gentlemen of the Defense.

Q Which gentlemen?

A I'm sorry, I don't know which one of the two gentlemen it was.

Q When you say one of the two gentlemen, do you mean either Dr. Berndt or Dr. Bornemann?

A Yes, one of them.

Q And they told you that the Prosecution was going to cross examine you today, is that right?

A Yes, that's what they told me. I heard that anyway.

Q And based on what they told you, you thereupon discussed with them the written statement that you read into the record this morning, is that right?

Q I don't know whether we understand each other. It is correct that I discussed my written statement with these two gentlemen but we don't call that argumentation or discussing. We speak ----

Q No, my question, Dr. Struss, is that you discussed this with Defense Counsel, Dr. Berndt or Dr. Bornemann after they told you that the Prosecution was going to cross examine you and not the Defense is that correct?

A I must admit that I don't know anything about these legal details. I don't know anything about that. I was never before in a trial, or a witness in a trial, and I really don't know anything about these tiny differences ----

Q I'm merely asking you what Dr. Berndt or Dr. Bornemann told you. I'm not undertaking any reproach or any criticism in any manner. I'm only inquiring, and my question is: As I correct, do I correctly understand that Dr. Berndt or Dr. Bornemann told you that the Prosecution was going to cross examine you today and having told you that, you then discussed with them your prepared statement?
Do I correctly understand that to have been the situation?

A No, no. No, I really don't understand what you mean.

Q Let me take it step by step. Are we agreed that either Dr. Berndt or Dr. Bornemann told you that the Prosecution was going to cross examine you today? Is that right?

A I understood these two gentlemen in such a way that today I would be cross examined by the Prosecution as well as by the Defense. That is how I understood things to be.

Q Well, let's get on to your affidavit and interrogation. You were examined on 27 March, '47, in the afternoon, is that right?

A Yes, that's right.

Q Do you recall who was present at that examination?

A Yes.

Q Who?

A You were there! Mr. Hauptmann, ---

Q Is he a German speaking interrogator?

A Yes.

Q (Inaudible)

A Yes, yes, and a secretary.

Q Anyone else?

A And a secretary, Miss Strecker, who did not speak German.

Q Now, were you asked whether you had any objections to being interrogated in English?

A Yes, I was asked that. I believe so at least.

Q And what did you say?

A I believe that I did not raise any objections. Certainly I didn't, for after all I had been interrogated more than a hundred times in English since the Spring of 1945.

Q That's a hundred times before this interrogation of 27 March 1947?

A Yes, that's what I mean.

Q Now, Dr. Struss, do you recall that at the time of this interrogation the interrogator told you as follows: "Please do not undertake to answer any question that you do not understand."? Did the interrogator make such a statement to you at that interrogation?

A Certainly, and I also understood all the questions very well.

Q Now then, did you on occasion when you found it difficult to express yourself in English, did you undertake then to give an answer in German off the record to Dr. Hauptmann?

A Yes, that's what I did. That's happened several times.

Q And after you expressed yourself in German to Dr. Hauptmann did you then put it on the record in English and ask you whether that's

a fair statement in translation?

A Yes, that's what happened.

Q Now, then, I am showing you, Dr. Struss, the original of Document NI-12610, which is Exhibit 1876, which contains your affidavit and the interrogation. Now will you please tell me whether or not you have initialed every single page of that interrogation of the document you have before you?

A Yes, I did. On the 21st of November 1947, eight months after the interrogation took place, I initialed every single page.

Q Now, on that dated, 21 November 1947, did you also make the changes on that interrogation in your own handwriting? Please look at the document.

A Yes, I made several corrections which concerned some very obvious errors in typing.

Q Do you recall the circumstances under which you made the statement in November 1947 which constitute the first two pages of the document? Do you recall those circumstances?

A Yes.

Q Tell me what those circumstances were?

A I was here in Nurnberg. I was being cross examined in court. And on that day you called me --

Q Were you being cross examined by the defendant Ter Heer in court on that day?

A On the 21st of November? No, I don't remember. I don't think so but I can't say that just like that. I only know that you at that time asked me to come into your chambers and you asked me whether I had discussed these things with Dr. Ter Heer concerning the fact whether or not he knew about these things in Auschwitz, and then I gave you this very short affidavit.

Q Did you volunteer the information which is contained in paragraph 3 of the affidavit? Did you volunteer and undertake to tell me of your discussion that you had with Dr. Ter Heer in Frankfurt

on 1 November 1947?

A That is quite possible. Yes, I believe I did that voluntarily.

Q Do you recall --

A After all, I gave -- I mean I was interrogated, and every interrogator always asked me whether I was not making my statements voluntarily and I always said yes and I probably did that in this case too.

Q Well, let me recall to you 21 November 1947, when you came into my office. Is it correct that you came into my office after you finished your testimony as a witness before the Tribunal? It was after you concluded your testimony, is that right?

A Yes, I'm sure that that's right, but I'm afraid I can't remember in detail, though I'm sure that's right.

Q Do you remember telling me and Dr. Heilbrunn that you were surprised to see Ter Meer at Frankfurt on 1 November 1947?

A Yes.

Q And did you tell me then as to what happened when you saw Ter Meer in Frankfurt, on 1 November 1947?

A I'm sorry, I didn't quite understand that question.

Q I say, did you tell me in my office, and tell Dr. Heilbrunn, of your discussions in Frankfurt on 1 November 1947? Did you undertake to tell us about that yourself?

A Well, no. I don't remember at all just how the events succeeded each other. I know that I was in your office --

Q Were you there for any formal interrogation?

A Well, yes. I certainly thought that that was a formal interrogation -- small, but formal -- and if I remember correctly, subsequent to that, or even just before, you showed me this long interrogation dated March '47. That's what I remember.

Q Now, just when I showed you the interrogation of March '47, did I tell you that we could not locate the original that you

signed in March 1947 - the copy containing your signature? Is it not a fact that at that time I showed you a copy of the transcript and gave you the copy and asked you to read that copy and to initial the pages if they were correct? Is that what occurred then?

A On the 21st of November, yes, that is exactly what happened. Just the way you described it now.

Q And you did read through very carefully the interrogation, the copy that was given to you of the transcript, did you?

A Yes, certainly, I read through it carefully, but you certainly must understand, in spite of that, that such a long interrogation which had taken place eight months prior to this particular time and which was given to me without any sort of preparation and any sort of documents, certainly just by reading the transcript one couldn't possibly catch all the discrepancies..

Q Now, Dr. Struss, do you recall that you did sign this interrogation before 21 November 1947? Do you recall that?

A No, I don't remember.

Q Will you definitely say that you did not sign the interrogation before 21 November 1947?

A No, I wouldn't say that.

Q You are definite though that on 21 November '47 I gave you a copy of the interrogation, not the original but a copy of the transcript?

A Yes.

Q And I told you then, did I not, that we could not locate the original that you had signed? Did I tell you that?

A I'm sorry, I don't remember.

Q Did you get a copy of the interrogation that you signed?

A Yes.

Q Dr. Struss, do you say now or can you tell me whether or not in your opinion the interrogation is a correct reproduction of the questions and answers that were made on 27 March 1947? I'm

asking you as to the correctness of the reproduction.

A Yes, it is a correct reproduction, but I must say in connection with this that it is extremely difficult to answer questions that are being put to one in such a way -- as one would possibly have done if one would have made the statements voluntarily and without answering questions. Therefore, in this very long transcript there are a whole lot of things that are represented with a wrong slant. I'm not saying, of course, that the Prosecution is to blame for that, but only that this, of course, lies within the substance of the matter. Such an interrogation could never reproduce exactly what I would have said about these very same things if I could have made a voluntarily free statement; but then, of course, I do not deny that the transcript is definitely correct.

THE COMMISSIONER: Mr. Anchan, it's 1230. Have you got just a little more?

MR. ANCHAN: A little more would make it a convenient breaking off place, yes.

Q Dr. Struss, is this a fair statement of your testimony? Exhibit 1876, NI-12610, is an accurate and correct reproduction of the interrogation that took place on 27 March 1947, is that correct?

A Yes.

Q Now, do I understand your testimony to be that on further reflection you would have made different answers than you made on the date of that interrogation? Is that the substance of your testimony?

A Yes, yes. That's just what it is. This further and exact reflection I was only able to have -- that is, I was only able to have peace for that after November 1947 and I used my time to reflect very carefully. Now in several points I would have to say that I arrived at different results. However, that in no way contradicts the substance of the original interrogation.

Q Now, one or two more things before we recess. This interrogation of 27 March 1947 was before the indictment was filed, is

that correct?

A Yes, I think that was before. I believe that the due date of filing the indictment -- I don't remember the exact date. I don't know.

Q Well, at any rate, there was no indictment in existence at the time you were interrogated on 27 March 1947? You know of none?

A You certainly will know the date for filing the indictment much better than I do. I don't know this date.

Q Well, I know the date. I'm asking you whether you saw or knew of any indictment at the time you were interrogated on 27 March 1947?

A I don't think that it was in existence, but you certainly must understand that in the course of all these interrogations and examinations that I went through I really didn't have it in my mind to be careful whether it was before or after filing the indictment. I never bothered about legal points like that.

Q Now, after your interrogation did you discuss the subject matter of the interrogation with any Defense attorney, any defendants, or any employees of Farben?

A No. Only after the 21st of November, after I had my own signed copy of this transcript at hand, only then I talked with several gentlemen. Before that there was only that very short conference with Dr. Ter Meer, about which I made statements here.

MR. AMCHAN: I think we can suspend now and recess until 1:30.

THE COMMISSIONER: We'll run it a little over. We'll recess until 1:45.

The Commission will take a recess until 1:45.

(The Commission in recess until 1345 hours.)

THE MARSHAL: The commission is again in session.

THE COMMISSIONER: You may proceed with the examination.

DR. STPUSS resumed the stand for further

CROSS EXAMINATION

BY MR. AMCHAM:

Q Dr. Struss, you mentioned that you were examined 100 times before this examination of 27 March 1947, is that right?

A I included in this figure the interrogations of 1945, and there were numerous interrogations then. Of course, I can't say for certain, but I believe it was very near 100 interrogations.

Q Now, Dr. Struss, is this a fair statement of the statement, that after you were examined by the Office of Chief of Counsel, an affidavit was prepared for your signature, and that affidavit incorporated the essential points of the interrogation. Is that a fair statement of the procedure that took place with respect to the interrogation and affidavits executed by you?

A In you referring to the interrogation in March, or the conference in November?

Q First I am asking you about the general practice which prevailed in connection with all affidavits that you generally executed. Was that procedure that I described followed with respect to your affidavits?

A I would like to ask you to simplify that question. I am afraid I do not quite see it in context.

Q Do you recall that after the interrogation of 27 March 1947, you executed an affidavit which contained the substance of the matters elicited in that interrogation? Do you recall that?

A No, I can't remember that, but I don't doubt that if matters stood at such a point, I certainly would have agreed.

Q You would have agreed to what?

A That this statement was as I stated.

Q I show you, Dr. Struss, this document NI 15286, which we offer in evidence as Prosecution Exhibit 2343.

5 May. 48-A-GJ-14-2-Bratzel-
Court 6 case 6

Now will you please look at the original of that document and tell me just what that is?

DR. HOFFMAN: Mr. Commissioner, this is Dr. Hoffman for Ambros. I would like to use this opportunity to object against the submission of this affidavit. This affidavit is dated April 1947. The Prosecution has closed their case, in chief, besides the Prosecution has already submitted their rebuttal documents and now they submit this document saying that they wanted to verify whether or not this is a document which the witness has authored in April, 1947. Now I do not believe Prosecution has the right to submit documents like that after having closed their case in chief. I would like to make this statement for the record, so that the Tribunal can make a decision.

MR. ALCHAM: Defense counsel in our view is entirely wrong in his basic premise which seems to be that we may not show a witness on cross examination any new documents, and that we may not offer through cross examination any documents. This particular document, we gather from the testimony, just what the nature of it is, and the use to which we are putting it for purposes of cross examination.

DR. HOFFMAN: May I only very briefly say, in answer to that, I am convinced that the Prosecution knows more about procedural rules than I, but from the practice of trials here I think that the Prosecution is only permitted to submit a document like that for identification, but not as he does to offer it in evidence, and that is what I object against.

MR. ALCHAM: Well, I think on this document we could accommodate defense, and I will withdraw the offer in evidence and will just have that document marked for identification.

DR. HOFFMAN: No objection.

MR. ALCHAM: Is counsel withdrawing his former objection?

DR. HOFFMAN: Yes, counsel is withdrawing his objection as far as this concerns the submission of this document in evidence.

Q. Dr. Struss, could you tell us what that document is?

A. This document is an excerpt of the very long interrogation dated 27 March.

Q. I beg pardon, Dr. Struss, did you say that document is an excerpt of an interrogation?

A. An excerpt of a long interrogation, yes. The interrogation that we talked about this morning.

Q. One moment, Dr. Struss, that document consists of how many pages?

A. It consists of four typewritten pages.

Q. Typewritten pages. Now that is an affidavit of yours, is it not?

A. Yes, it is.

Q. What is the date of that affidavit? Look at the last page.

A. The 7th of April, 1947.

Q. And in whose handwriting is that date?

A. That is in my own handwriting.

Q. Are there any changes on the first page of that document? Any changes in the typewritten part?

A. No, but I personally made a few short corrections.

Q. And in that affidavit in your own handwriting?

A. The corrections are all in my own handwriting.

Q. Now, did you make any corrections here as to details in your own handwriting?

A. Well, certain small corrections were made in this document. I don't doubt that the content just as it is today corresponds to the facts as far as I was able to survey them at the time.

Q. Now, Dr. Struss, is this a fair statement? The document which you have before you, which is marked Prosecution Exhibit 2343 for Identification, whether that document is your affidavit of 7 April 1947?

A. The number which you have just read: I don't see that number on the document.

Q. What number do you see on the document?

A. This document only shows the number NI 15286. There is no other number.

Q. Now, NI 15286, has been offered for identification as Exhibit 2343, and we are talking, are we not, about Document NI 15286? We are talking about that document?

A. Yes, that is correct.

Q. And you have the original in your hand? Right?

A. Yes.

Q. Is this a fair statement as to the nature of that document? It is your affidavit of 7 April 1947, setting out the facts contained in your interrogation of 27 March 1947? Is that a fair statement of the situation?

A. Yes, approximately. This document, of course, does not reproduce all details, nor was that possible, but it certainly contains an approximate picture - a partial picture - of the interrogation of 27 March.

No doubt about that.

Q. Do you recall now, Dr. Struss, whether at the time you signed this affidavit, NI 15286, Exhibit 2343 for Identification -- do you recall whether at that time you actually compared the contents of that affidavit with the transcript of your interrogation of 27 March 1947? Do you recall?

A. No, I am sorry I cannot recall that, but of course there is no doubt that this affidavit, that is NI 15286, was signed by me on 7 of April, 1947.

Q. Was it the practice, Dr. Struss, when affidavits were submitted to you for your signature to make available to you the transcript of your interrogation so that you could check whether the affidavit correctly incorporated the substance of your interrogation? Wasn't that the practice followed with respect to you?

A. Yes, it was always like that. I can confirm that. It has never been handled in any different manner, nor do I criticize that in any way. But also from this affidavit on page 4, I can see--and I am reading in English. It says on page 4: in connection with the information that I gave to Dr. Ter Meer and Dr. Ambrose: "I think I discussed the matter with Dr. Ter Meer, Dr. Ambrose, Dr. Lammeth and Dr. Loehr." Also in this case I only mentioned that I thought that it was like that at the time. In no way did I make a positive statement. I would also like to point out once again that in the original interrogation, that is before that, I repeated twice, "I don't remember".

Q. Dr. Struss, all I am interested in finding out now is this, and you already mentioned it, that NI 12610, which is Exhibit 1876, that is the interrogation, you have already said that is a fair and accurate and correct transcript of what transpired that day, did you not?

A. Yes, that is right.

Q. And the affidavit which you have before you of 7 April 1947, NI 15286, which is Exhibit 2343 for Identification, you read that carefully before you signed it, did you not?

A Certainly.

Q And you made changes in your own handwriting, did you not?

A Yes, I did. These changes are, of course, only small corrections, but it is impossible, in the case of a long interrogation which has already been concentrated in a document, to change it in such a way as if one had testified oneself. I have to repeat again that I certainly acknowledge my statements, but on the other hand I must also say that in the course of such a difficult interrogation in which such complicated matters are discussed, it is quite unavoidable that this or the other formulation isn't quite the way it should be.

Q Well, that is understandable. What I am interested in just now, Dr. Struss, is with respect to the affidavit, your affidavit of 7 April 1947, MI-15286. Did you have a fair opportunity to make any and all changes in that affidavit that you wanted? Did you have that opportunity given to you by the prosecution?

A Not altogether. I would like to mention a small example at this point which otherwise I would have not mentioned at all. I heard that my connections with Dr. Ambros were discussed here from my lengthy interrogation. These connections with Dr. Ambros emerged from the interrogation in an entirely false light, without my necessarily having made a false statement. Now if you had handled the matters at that time in the following way: if you had told me, "Will you please clarify your connections with Dr. Ambros", then I would have done so in one sentence and I would have said, "My relationship with Dr. Ambros was always pleasant and friendly. I never had any difficulties with him".

Q Dr. Struss, I think you are going a little bit far afield.

A No.

Q I am asking you -- I withdraw that. Does your testimony merely come down to this: that had the interrogator asked you different questions you would have given different answers? Are you trying to say anything more than that?

A The line of questioning used in the interrogation partly determined the answers beforehand; without my actually having made false statements, my relationship with Dr. Ambros was entirely misinterpreted by the Court. I want to insist that this is not at all incorporated in this excerpt, and to that extent I therefore cannot say that this is a complete excerpt from the transcript of the interrogation.

Q I am afraid I don't understand you, Dr. Struss. This affidavit of yours of April 7, 1947, NI-15286, which you signed on that day, is that a fair affidavit in connection with your interrogation of the 27th of March 1947? Do you understand my question?

A Yes, I do. It is a fair statement concerning those points of 27 March which are incorporated in this document, but a certain number of points is not at all in there.

Q That is all I am asking you. I am only asking you about the interrogation of 27 March 1947, and to make sure we understand this affidavit of yours of the 7th April 1947, NI-15286 — is that a fair reproduction and summary of the substance of your interrogation of the 27th of March 1947?

A I do not believe so for I have just discussed this matter, this very point which I heard was discussed at great length during the trial. This was one of the most important points contained in the interrogation of 27 of March. This point was never mentioned in the document of 7 April as far as I could see. Now if you ask me —

Q One moment. Could you point out what portion of the interrogation of 27 March 1948, which is NI-12610, Exhibit 1876 —

A Repeat the numbers, please.

Q NI-12610, Exhibit 1876. Tell me what portion of that interrogation which is important had been incorrectly incorporated in your affidavit of April 7th, NI-15286.

A No, that is quite impossible.

Q Let me put the question another way. Show me what in your affidavit of April 7, 1947, NI-15286 is an incorrect summary of your

interrogation of 27 March 1947. What part of that affidavit is incorrect in relation to your interrogation of 27 March 1947?

A The interrogation of 27 March 1947 contains 24 typewritten pages. Those 24 pages are condensed to four typewritten pages. I don't believe it is humanly possible for anyone to say what is included, shall we say, in this condensation. Now if you ask me what is reproduced in NI-15286 is correct, then I say, yes, that is correct.

Q Now you testified on cross examination by Dr. Berndt that after you learned of the bad conditions at Auschwitz you took some steps in order to check whether or not what you heard was true, and did I correctly understand you to say that one of the steps you took was to listen to foreign radio stations to see if they reported on such bad conditions at Auschwitz. Did you so testify?

DR. HOFFMANN: I object, Mr. Commissioner. This is Dr. Hoffmann for Dr. Seidl, for the defendant Duerrfeld in this case. If I understood the witness correctly, he said in his statement that he had listened to foreign radio stations because he had found out that gassings and cremations were going on in Auschwitz. The prosecutor, I believe, may have misunderstood that. He asked the witness whether he listened to the foreign stations after he had heard about the very bad conditions in the plant in Auschwitz. I make this objection for the record, please.

BY MR. AMCHAN:

Q The witness can state just what he said and that is what I am interested in finding out. Did you understand the question?

A Yes, I did. I didn't hear anything about bad conditions in the plant Auschwitz. My inquiries and investigations were mainly concerned with finding out whether or not anything about atrocities at the concentration camp Auschwitz was known abroad. These investigations were without result in every case.

Q I am interested in the nature of the investigations that you undertook in your effort to ascertain whether or not what you heard on

the train ride in the summer of 1943 about conditions in the Auschwitz concentration camp were true. Now first —

A No. At that time I didn't undertake anything at all because I considered those things to be a very improbable rumor. Only after May 1943 when I visited Auschwitz for the second time, did I try to find out, through Mr. Flotow who made a trip to Switzerland, whether these things were known abroad.

Q Just tell me what instructions you gave Mr. Flotow and fix the time, if you can.

A I can't tell you that today, but I assume that I told Mr. Flotow that he should listen around quite generally and see whether anything was known abroad about atrocities in German concentration camps.

Q Who is Mr. Flotow?

A Mr. Flotow is a Prokurist of the Farben Company. I had a great deal of business with him. I don't know whether he appeared here as a witness.

Q What department was he attached to?

A He was working on intermediary products, and therefore he had a lot to do with the big Swiss firms.

Q Was he in Ludwigshafen?

A No, he worked in Frankfurt.

Q. Now could you try to remember a bit more exactly just what you told Mr. Flotow? You told him to listen around, What do you mean "listen around?"

A. Well, I certainly must have given him very clear instructions. There is no sense in my trying to recall these things. Will you please remember how many years ago that was. That was five years ago today and it certainly isn't easy to remember all these details about which I never took down any notes. But I am sure that I gave him these instructions during the summer of 1943, and I also know for sure that after he came back he told me, "Nobody knows anything."

Q. Now, Dr. Struss, I am in no way trying to embarrass you in any way. You undertook to volunteer the information when Dr. Berndt was cross examining you. You yourself volunteered the information about the steps you took and the instructions you gave to Farben employees to find out by checking abroad whether or not the activities — or rather atrocities — in the concentration camps actually existed. Now you volunteered that information. I am trying to find out the whole story about what efforts you made. Now you mentioned Mr. Flotow as one of the people whom you asked to go abroad to Switzerland and find out whether or not it was true about the atrocities in the Auschwitz Concentration Camp. Have I correctly understood your testimony so far?

A. Yes, only I did not send Mr. Flotow to Switzerland but Mr. Flotow went to Switzerland to take care of some business matters for Farben and on that occasion I asked him to find out whether he could hear about any such things in Switzerland.

Q. And that was after your second visit in Auschwitz? Is that right?

A. Yes, certainly. During the cross examination I also said that after my first visit in Auschwitz I did not undertake to do anything, except for asking people who came from Auschwitz, but I mentioned that before.

Q. Now, Dr. Struss, in addition to Mr. Flotow, were there any other

Farben people who went abroad whom you asked to check and inquire whether the reported facts, or rumors, if you will, about the atrocities in the Auschwitz concentration camp, were true or not? Were there any other people?

A. Yes, I already mentioned that I asked a man who went to Spain to do the same. But I cannot remember who it was.

Q. And do you recall that he came back and gave you a report?

A. Yes. I remember exactly that he did not find out anything in Spain either.

Q. Now I want to be sure I understood another portion of your testimony. I understood you to say that you yourself listened to foreign radio stations in order to personally check whether any of the rumors about the Auschwitz concentration camp were true or not. Did I correctly understand that to be your testimony?

A. Yes, that is correct.

Q. And did you listen to the foreign radio stations after your second visit to Auschwitz?

A. Only then; not before that. In general, I was not at all interested in foreign radio stations, and I can remember that I only did that for a very short time after my second visit to Auschwitz.

Q. And when you say you listened for a very short time, was that for the express purpose of assuring yourself as to the truth or falsity of the rumors in connection with the Auschwitz Concentration Camp?

A. Yes, I was terribly disturbed about these things, and it is understandable that I tried to verify these things in some way.

Q. No further questions.

RECESS EXAMINATION

BY MR. BERNHEIM:

Q. Dr. Struss, did I talk to you during the recess?

A. No.

Q. The statement of your corrections or additions to the Exhibit 1876

which you read this morning, was that your own statement?

A. That was my own statement which I drew up all by myself in Frankfurt.

Q. Is it correct that I told you that generally the prosecutor who calls someone to the stand will ask this witness whether he wants to make a statement or comment upon his affidavits; whether he wants to make corrections, etc.

A. Yes, you said that.

Q. Did I not also tell you that if the prosecutor asks you that, then you would have your opportunity to read the statements?

A. Yes, that is correct.

Q. Now, since this did not happen this morning, I myself asked you to read this. In connection with this Exhibit 1876 I want to ask you a short question. Mr. Amchan said that this interrogation took place on the 27th of March in the afternoon. Were you interrogated only in the afternoon?

A. No. To the best of my recollection, I also was interrogated for long hours and upon very difficult matters which also disturbed me very much.

Q. Will you please look at Exhibit 1876. Turn to Page 14 of that exhibit; if the German version, that is. There you will find certain words on Page 21 of the original in question. I believe that you told us this morning that your assumption is confirmed by that.

A. Yes, yes, I have it. That is correct.

Q. Do you know that I also have submitted affidavits of the gentlemen Lochr, Lemmeth and Becker, and that they concern your statements in Exhibit 1876?

MR. AMCHAN: This is objected to. It's improper to ask him about affidavits he has about third parties.

BY DR. BERNDET:

Q. Then I will have to show these affidavits to the witness. I

only asked the witness once and not four times about the same point as the prosecutor did just now, I have to say that quite publicly.

(Witness is offered documents.)

These are documents from the supplementary document book of Ter Meer which were submitted to the Court yesterday afternoon: Affidavits of Dr. Lochr, Mr. Lemmeth and Mr. Becker.

A. Dr. Lochr's is on Page 12.

Q. Yes, I shall give you the numbers in a minute. Now, witness, perhaps you will first read the affidavit of Dr. Lochr and tell me whether you yourself have any comments to make with reference to this affidavit.

MR. AMCHAN: If Your Honor please, the record is in such a shape that we cannot tell what documents were handed to the witness or what testimony is about. For orderly procedure, in order that the prosecution in addition to the defense will know exactly what is happening here, we are asking the defense to identify the documents and if there is a copy we would like to know what is going on to and not to hand documents to the witness without giving the prosecution copies or identifying them specifically.

BY MR. BERNDT:

Q. I have just said that I will give the exhibit numbers; that these are documents which are contained in the supplementary document book, Volume XIV, Ter Meer. They are admitted by the court into evidence and the exhibit numbers are 238, 276, and 277. In order to inform the prosecutor exactly, I am now giving them to him. These are the three last documents in the volume. Dr. Struss, did you read the first affidavit of Lochr?

A. Page 18 through page 19. Well, these are 7 pages. I just scanned through them. This concerns the Francolor.

Q. Oh, I am sorry, I meant the last two pages.

A. Just a minute. Yes, I have read it.

Q. Do you have any comments to make about it?

A. Yes. Dr. Lochr says here that in Auschwitz human beings were killed by gas then cremated.

MR. AMCHAN: We object on the ground that it is improper redirect and irrelevant to interrogate the witness by showing him affidavits of third parties and to ask him whether he agrees with the affidavits of such third parties. That is incompetent and improper examination. He can ask the witness directly about his own knowledge, but he cannot, in our view, ask the witness what his opinion is of a third party's affidavit.

DR. BERNDT: I did not ask the witness Dr. Struss whether he agrees with the statement of Dr. Lochr, but very clearly I asked him whether he had any comments to make about Dr. Lochr's statement. I believe that there is a difference and that the question, the way I put it, is entirely permissible, as I have learned here in court.

THE COMMISSIONER: Well, the record is made so you may proceed.

BY DR. BERNDT:

Q. Dr. Struss, if you have any comments to make, will you please make them now?

A. Dr. Lochr here says, "I remember that Dr. Struss, on the occasion of a visit, reported about cremations of corpses which took place in the Auschwitz camp. Well, that's wrong. He, of course, means the concentration camp."

Auschwitz. I don't really have any comments about that.

Q. Alright. Now, will you please look at the next affidavit. The affidavit by Lammeth. Will you please be kind enough to tell me the exhibit number which will be found in the index, in front.

A. Ter Meer exhibit 276.

Q. Thank you very much.

A. Mr. Lammeth denies here that I gave him this information. I cannot say very much against that, for, after all, I said that was my best recollection. Now, if Mr. Lammeth himself says that I did not tell him, I cannot add anything.

Q. Will you please read the last affidavit, the one of Mr. Becker, and will you please give me the exhibit number?

A. Exhibit number 277.

Q. 277, very well.

A. Mr. Becker writes that I never gave him any information on happenings in the concentration camp. That coincides with my own recollection.

Q. Thank you. Furthermore you said that you were interrogated about 100 times. Were the interrogations conducted in English or German?

A. Well, that varied. In 1945 I was interrogated by Mr. Weissbrodt very often. All these interrogations by Mr. Weissbrodt were conducted in English, but many of the interrogations were also conducted in German.

Q. Dr. Struss, you have been confronted with document 15-286. Its identifying number is 2343. This document, at least the version I have, is an English version of this affidavit, of 7 April 1947.

A. Well, the document which I had before me, I think it was in English, I don't know. Could you please -- thank you. Yes, it is also in English.

Q. I beg your pardon, would you please leave that document with the witness. Thank you.

Dr. Struss, did you read this exhibit 2343 completely or did you just read it very superficially?

A. Y-ou mean 15-286? I just read them superficially, but I don't doubt that it is in order.

Q. I just have one question. This morning you made a statement concerning exhibit 1876. Is this statement that you gave this morning prejudiced in any way by exhibit 2343, so that now you might feel that you would like to change your answer?

A. No, in no way at all.

Q. Y ou further said that in order to clarify matters, you undertook two things. First, you listened to foreign radio stations, and secondly, you asked two gentlemen who went abroad to make inquiries. Now, may I ask you, did you have another possibility to have these things verified?

A. I didn't see any possibility.

Q. Now will you please turn to exhibit 1876, the German version at the bottom of page 5. May I please read it to you .

"Q. When Dr. Ambros asked you to come, did he ask you to come as a representative of the TEA?

"A. No.

"Q. Did he ask you to come privately?

"A. No. He....

"Q. Dr. Ambros, when he asked you to be present the meeting in 1942 in Auschwitz, did he ask you first

your official capacity as representative of the TEA, and second, in your personal capacity as a friend of his, is that correct?

"A. Yes, I believe that's how it was."

Now, in connection with this, I just wanted to ask, because it sounds so funny that you said "No" to the first question as to whether you came there in your capacity as representative of the TEA. Then later on, you said that you were asked first in your official capacity as representative of the TEA. You said exactly the contrary of what you answered in the negative just before. How is it that the interrogator who certainly must have understood you quite correctly, a minute later asserts the exact contrary of what you have just said before?

A Dr. Berndt, the example that you just gave must make it quite clear how difficult it was for me to answer a question which was not posed correctly, because it did not understand the things as they were in I. G. It was impossible for me to give a proper answer. Now you see, there where the interruption was, I wanted to give a long explanation voluntarily, but of course that's bad. I admit that that was my own fault, my own fault that I did not insist on giving my own answer, but after all, I did clarify matters somehow. I was there in an official capacity and I also assumed that Dr. Ambros asked me as a personal favor, so to speak. But as a representative of TEA, I was not a representative of the TEA at all.

Q. You are right, I just wanted to demonstrate this as an example for the manner of interrogating, and today's examination has made it even clearer.

I have no further questions.

DR. HOFFMAN: Mr. Commissioner, I need about a half hour. Would it be agreeable to you to have the recess now?

THE COMMISSIONER: Yes. We will recess for about twenty minutes.

(A short recess was taken.)

THE MARSHAL: The commission is again in session.

THE COMMISSIONER: You may proceed with the examination.

DR. STRUSS: resumed the far for

RE-RECROSS EXAMINATION BY

DR. HOFFMAN:

Q. Dr. Hoffman for Ambrose. Witness, I want to question you about the affidavit which was offered for identification. This is NI 15286, Exhibit 2343. Do you have the affidavit in front of you?

A. No.

Q. Do you have it now?

A. Yes.

Q. Witness, I wanted to ask you once more, did you make out this affidavit in English, or did you make it out in German?

A. I certainly made it out in English because I have the original here, and I made the corrections in English in my own handwriting.

Q. Witness, if you made out this affidavit in English, I shall quote those sentences which I wanted to discuss with you in English. First of all, I begin with Point 5 and I quote: "In January of 1942 Dr. Ambros invited me to visit the Buna plant at Auschwitz. He had been complaining about the trouble that he had and he wanted me to personally see what the situation at Auschwitz was. Dr. Ambros in asking me to visit Auschwitz in 1942 asked me to come in my official capacity as a representative of TEA and also as a personal friend. Dr. Ambros understood I was going to report back to the TEA after my visit, since he knew that Herman Schmitz and Dr. Ter Meer relied on my judgment.

He wanted me to see that it was not his fault that Auschwitz was not progressing satisfactorily, I visited the Buna plant at Auschwitz about January 28, 1942."

Dr. Struss, If I read this paragraph I gather from this description that Ambrose was "under pressure". You know what I mean by that? That is, that they said that the plant should be completed?

A. No, that is not the case. That was not my opinion.

Q. Then I don't understand your sentence.

A. I don't understand it myself, because if I had personally written this sentence in German then it would read quite differently; but I don't mean to say by that that this is wrong. It is only in my conception and in our German conception a very strange manner of expressing my meaning.. It is to be understood in the following manner -- .

Q. I don't want an explanation from you, Dr. Struss. I just want a question answered. Do you think I am right when I say that if one does not understand a foreign language in such a way that one can express oneself properly in it, that one should rather refrain from doing that and admit it and rather use one's mother tongue? Is that correct?

A. That is not quite right, Dr. Hoffman. I assume that this sentence which you read just now was not written by me, but that an English extract from my examination was put to me in this form.

Q. Did you then say, Dr. Struss, that you did not understand the sentence and this excerpt from your interrogation which was put to you?

A. No, and I do understand it, too, but I must say that if I had described these things myself, I would have used an entirely different phraseology, but I see no direct mistakes in them.

Q. Well, Dr. Struss, then we shall start to quote single sentences; maybe we will get farther that way. I quote again in English: "He", by "he" you mean Ambros, is that right? That is in Paragraph 5, third line from the end. Do you see that?

A. I didn't get you.

MR. ALCHAM: I am only going to inquire of counsel for the defense since the document he is referring to has only been offered for identification and he made objections, now he is going to interrogate the witness on the document, which is entirely proper. My only inquiry is whether it would not simplify matters to have that in evidence now, so we will all know what the document is that they are talking about, and whether he is reading fair excerpts of it or not. On our part we would have no objection to having it in evidence since counsel is undertaking now to quote parts of it and ask questions about parts.

DR. HOFFMAN: For the record I would like to say that I myself already had this idea, as the Prosecutor said before at length about this document, that examination on it only is possible if it were in evidence but since it was my intention to follow the example of the Prosecution, did not raise any objection against that, and I would like to continue :

questioning even though the document is only submitted for identification.

Do you now have the sentence?

A. "He wanted me to see"?

Q. Yes, I quote: I start with "He", is that Ambros?

A. "He wanted me to see--."

Q. Yes, do you mean by "he", Ambros?

A. That is to be so understood.

Q. I ask you, Witness, whether this is Ambros or who else? It might be Mr. Ter Meer, or Dr. Schmitz?

A. No, it is Ambros.

Q. All right. I quote: "He wanted me to see that it was not his fault that Auschwitz was not progressing satisfactorily." Witness, I can not understand this sentence as anything else but that it expresses the facts the way you described them here, namely; that according to this, Ambros was under pressure and that he wanted to place himself on your objective judgment that it couldn't go any differently.

A. This goes too far.

Q. Well, I just asked you for that sentence. Would you, as a German who knows the German language, say that I am right if I say that according to our knowledge of the German language this conclusion must be drawn from this sentence?

A. No. I did not draw this conclusion from this sentence.

Q. And why not?

A. I will translate it into German. "Dr. Ambrose had the desire to show me why matters in Auschwitz were progressing so slowly". And that is entirely correct and I consider this English version as not so bad.

Q. Witness, would you translate the expression "funsch" in German into "fault" in English?

A. I would not translate this with "fault", but I find that the expression "fault" is not so incorrect. In German I would also say that

questioning even though the document is only submitted for identification.

Do you now have the sentence?

A. "He wanted me to see"?

Q. Yes, I quote: I start with "He", is that Ambros?

A. "He wanted me to see--."

Q. Yes, do you mean by "he", Ambros?

A. That is to be so understood.

Q. I ask you, Witness, whether this is Ambros or who else? It might be Mr. Ter Meer, or Dr. Schmitz?

A. No, it is Ambros.

Q. All right. I quote: "He wanted me to see that it was not his fault that Auschwitz was not progressing satisfactorily." Witness, I can not understand this sentence as anything else but that it expresses the facts the way you described them here, namely; that according to this, Ambros was under pressure and that he wanted to place himself on your objective judgment that it couldn't go any differently.

A. This goes too far.

Q. Well, I just asked you for that sentence. Would you, as a German who knows the German language, say that I am right if I say that according to our knowledge of the German language this conclusion must be drawn from this sentence?

A. No. I did not draw this conclusion from this sentence.

Q. And why not?

A. I will translate it into German. "Dr. Ambrose had the desire to show me why matters in Auschwitz were progressing so slowly". And that is entirely correct and I consider this English version as not so bad.

Q. Witness, would you translate the expression "Wunsch" in German into "fault" in English?

A. I would not translate this with "fault", but I find that the expression "fault" is not so incorrect. In German I would also say that

it was not his "fault" that matters at Auschwitz were progressing so slowly, and that is what he wanted to show me.

Q. Witness, do you really wish to claim that the expression "Wunsch" in German and the expression "failure" in English, are the same?

A. No, but I would recognize both expressions here, and it was shown to me as evidence why these things were not progressing; that this was not the fault of Farben and not the fault of Ambros.

Q. Well, again, what do you mean to say with this sentence?

A. I wanted to say by that that we all know that matters in Auschwitz were progressing very slowly, and I was supposed to convince myself about the reasons for that by looking at it myself. Dr. Ambros and I undertook the trip together, and during this trip Dr. Ambros took the opportunity to describe the great difficulties at Auschwitz to me.

Q. Well, that is very interesting. What did he tell you?

A. If you wish me to answer, I will first have to think these things over, because please remember that six and a half years have elapsed, and now I am supposed to tell you what we discussed during a night in Berlin and at Auschwitz?

Q. Thank you, Dr. Struss. I will dispense with your answer, but I must determine that about these same details you were able to make an affidavit of one page in length one year ago. Can you give me a reason why your memory deteriorated so much in one year?

A. Oh, no. I consider it altogether possible that if I am given time to think things over — because I am not at all prepared for this — that all this will come to mind again and I will remember what was discussed. There were the difficulties about iron, about the labor, and after we arrived at Gleiwitz after three hours delay, the construction conference had already begun, and at this conference all these difficulties about which Dr. Ambros had reported to me before were confirmed in many hours of discussion; the labor question, the iron question, and innumerable other difficulties.

Q. I will leave this point now, witness, and I come to Point 7. Under

Paragraph 6, you have described the experience on the basis of which you heard of details about the atrocities in Auschwitz. In particular you have referred to the statements of a laborer who told you about that, and it says in the middle of Paragraph 7 and I quote: "I did not consider it necessary to speak with Dr. Ambros about this for the reason that if all the people in Auschwitz knew it, Dr. Ambros knew it also, because he was there so often." First of all, I would like to ask you, is it correct, if I understand your German to mean that you wanted to express by this sentence that you did not talk with Ambros about these things?

A. Yes.

Q. Can you tell from your own knowledge whether Ambros knew anything about these things or not?

A. In no way.

Q. Now, despite these matters and despite these reasons you draw a conclusion here, and you base this conclusion first of all on your claim that Ambros was in Auschwitz, and I quote in English, "so often". Would you tell me what that means in your German?

A. Well, in my German that is supposed to mean that he was several times a year in Auschwitz, and I did not know whether this was twice or three times or perhaps four times a year.

Q. Witness, but don't you admit that this sentence again presents difficulties in understanding it? Because if I hear about a man that he is there so often, without giving any limitation of time, then I must assume that he was there every hour or every day.

A. Well, this wouldn't occur to any one who knew approximately how many things Ambros had to take care of; how much work he had to do besides Auschwitz, but if this seems to follow from this, then I shall explain it in such a manner as to say that I was of the opinion that he was there perhaps two to five times a year. Whether this is correct or not, counsel, you probably have determined that in court here. Furthermore, I shall explain the sentence once more.

Q. I'd like to ask you something else, Dr. Struss. If we assume now that you were of the opinion that it was known that Ambros was in Auschwitz perhaps twice to five times a year, then I ask you what idea did you have as to how long Ambros stayed in Auschwitz each time?

A. I had a very good idea about that. I know that he spent one or at most two nights in Auschwitz, and I also know that occasionally it would happen that he came by sleeper, and would leave again at night.

Q. Then may I ask you, Dr. Struss, when you gave this testimony what idea did you have as to what Ambros did in Auschwitz? What occupation he had there? What he was concerned with?

A. Of course, I know that exactly. He concerned himself with the general progress of the construction, and of the details therein in broad outline, without going into any details.

Q After you've told me all this, my dear Dr. Struss, I'd like to ask you would you now consider this sentence as correct, or if you now were to present it in German would you find a different version and what would that version be?

A Well, I'll have to look for it first. I think, Counsel, that first of all I have to explain one interpretation which is not contained in this sentence, as far as I am concerned. The sentence is to mean the following: Either the testimony or the statement of the worker is a lie or a rumor or it was not true; then, of course, one doesn't have to follow up the matter any further. Or his claim that everyone in Auschwitz knew about it is true. In the latter case, I don't have to discuss it with anyone. That is what I meant to express by that sentence.

Q Well, now, I don't understand at all, my dear Dr. Struss, why in the latter case, if the claim is true, you should not talk about it with anyone. On the contrary, one would have had to discuss it with everybody or are you of a different opinion?

A I completely agree with you. But I believed the whole time that this was not true, until during my second visit I got the confirmation in Auschwitz?

Q And, finally, about this point I want to ask you -- these five words in the sentence I just discussed, which I shall quote once more -- and I begin the quotation: "He was there so often." End of quotation. You think that this means what you answered to my question?

A Yes.

DR. HOFFMANN: I have no further questions.

REDIRECT EXAMINATION

DR. ERNST STRUSS

BY MR. AMCHAM:

Q Dr. Struss, both the Defense Counsel asked you questions about your affidavit of 7 April 1947, which is NI-15286, and Exhibit 2343 for identification. Do you have that document in front of you?

A Yes.

Q You stated, did you not, that you executed that affidavit in the English language, is that right?

A That's right, as far as I remember.

Q Will you please read the last paragraph of that affidavit? The very last paragraph. Just read it aloud for the record.

A Oh, yes, I didn't see that.

Q Please read that paragraph for the record.

A "I, Ernst R. Struss, hereby declare that I am conversant with the German and English languages, that I drew up the German affidavit both of which is in translation and that I certify that the above is a true and correct translation of the affidavit, which I made in German".

Q I show you, Dr. Struss, a photostatic copy of a German affidavit, NI-6645, which -- I hand you that and ask you, Dr. Struss, is that a photostat of the original German affidavit that you executed?

A Yes, that's a photostat and I may remark that I made no objections whatever against the English translation.

Q But the German copy, photostat copy, that I just handed to you, does that bear your signature?

A Yes, it bears my signature.

Q Now, the English translation, NI-15286, which is Exhibit 2343 for identification, is that the translation that you made of the German original?

A I don't think that I personally made the translation. I'm not really in a position to do that.

Q Well, first let's take the German affidavit. You signed

the affidavit in German, right?

A That's right.

Q Does that indicate that it's an original or a translation?

A Yes, that is the photostat of a German original which was signed by me personally.

Q Now, will you direct your attention now to NI-15286, the English version of that affidavit? You just read the last paragraph which indicates that it's the translation of the German, is that right?

A Yes, that's a translation of the German original. It is an English translation of the German original.

Q All right, now, Dr. Struss, I hand you six sheets, and tell me, first, in whose handwriting and in what language those six sheets are.

A They were written by me personally in the German language.
Q Now, will you please compare the six sheets in the German language, in your own handwriting, with your affidavit in German, NI-6645, and tell me whether the typewritten affidavit in German conforms to the handwriting -- the version set forth in your own handwritten notes on the six pages?

A If I were to do that it would take at least half an hour, if I wanted to compare that exactly. I can't do that at the moment.

Q Will you take paragraph number 5 and compare it? Paragraph number 5.

A Yes, that agrees, and it is the way in which I would have expressed it in German. I may perhaps read the sentence which Dr. Hoffmann objected to.

Q Read it in German, go ahead, and tell me what you are reading from, whether you are reading from your handwritten notes or whether you are reading from those typewritten notes

in German.
[unclear]

A I am reading from the typewritten notes in German, but I see the sentence is completely identical. Here it says the following: Paragraph 5: "He complained -- that is, Dr. Ambros -- complained about the difficulties which he had and he wanted me personally to get acquainted with the situation in Auschwitz." And from this it does not follow at all that anyone exerted any pressure on Dr. Ambros and I will find the sentences the way I wrote them were completely correct.

Q Now, Dr. Struss, will you direct your attention to paragraph number 7 and please compare the -- please compare your handwritten notes as to paragraph 7 and tell me whether or not that conforms to the typewritten paragraph 7 in the German of your affidavit?

A There is a small connection here, but this is not very important. It is made in somebody else's handwriting. But the change is of no importance. It does not change the meaning. This sentence 2 which was objected to by Defense Counsel is completely clarified in the German language. "I did not consider it necessary to talk about it with Amros because if everybody in Auschwitz knew it, then Amrose, who was so often in Auschwitz, certainly knew it!" And this express "so often" was just explained by me.

MR. ANCHAN: Now, if your Honor please, in view of the evidence, we want to withdraw NI-14286, which is the translation of the affidavit, and substitute the original German, which is NI-6645, so that the record will now stand that NI-6645 is being offered in evidence and not for identification, in evidence, as Prosecution Exhibit 2343.

We have no further questions on this document.

RECORDS EXAMINATION

DR. ERNST STRUSS

BY DR. HOFFMANN (for Ambros):

Q Dr. Struss, 15 minutes ago I asked you whether the affidavit you executed, now in the German version, Exhibit 2343, whether you made this out in English or in German. Thereupon you told me in English. Now it was necessary to prove to you that the original was in German, is that right?

A That's correct.

Q Thank you.

A I told you how often I was interrogated, and then for many months I did not see those things, and that is absolutely conceivable that such errors occur.

Q 5 minutes ago you told the Prosecutor, who knows the American language, that in German "Wuenschen" and "beklagen" -- that is, to wish and to complain, are the same thing.

A No, I didn't mean it quite that way.

Q Well, then I'll have to refresh your memory because you told me just 15 minutes ago and I quote from memory -- and I can rely on that -- "Ambros desired that I should visit Auschwitz" -- and I also quote from memory what it says in your German affidavit: "Ambros complained about the fact that he was being reproached and therefore I was to go to Auschwitz as an objective witness." Or am I incorrect in this respect? Then please quote what you said?

A Well, may I then just read paragraph 5 from the German.

Q Yes, just this sentence.

A "In 1932 Ambros invited me to visit the Buna Plant in Auschwitz." That is, he invited me. In my opinion, that is the correct expression. Then it continues --

Q Correction. You said 1932. You mean 1942?

A Yes, '42. "He complained about the difficulties which

he had and he wanted the -- he wanted me to get personally acquainted with the situation at Auschwitz." No pressure can be gathered from that. I don't see it.

Q Witness, if someone complains about something, then he has pains?

A Yes, he had these.

Q All right.

DR. HOFFMANN: Witness, I have no further questions.

WITNESS ERNST STRUSS: Everybody who had to take care of such plants had pains.

DR. TRABANDT: Trabandt for Duerrfeld.

RECROSS EXAMINATION (Continued)

DR. ERNST STRUSS

BY DR. TRABANDT (for Duerrfeld):

Q Just a brief question, Dr. Struss. You said this morning, and you probably remember that in May 1943 when you heard the rumors about gassings you did not discuss that with Dr. Duerrfeld, is that correct?

A I must correct an expression. I did not hear about gassings but I heard of cremations after people had been killed beforehand, and I'm reasonably sure that I did not know anything of gassings yet at that time; in order to answer your question. I did not discuss that with Dr. Duerrfeld.

DR. TRABANDT: Thank you.

MR. AMCHAN: Counsel for Ambros, Dr. Hoffmann, just informed me that Exhibit 2343, NI-6645, the original affidavit of the witness in German which we offered in evidence -- that he understands we have offered it in evidence and that he does not object to it.

DR. HOFFMANN: That is correct.

MR. AMCHAN: With respect to the Exhibit, as to which this witness was examined and cross examined, I understand that feature of the examination is over. Defense Counsel informs me now that they would like to cross examine the

witness with respect to Exhibit 1941, which is NI-14273, and his accompanying affidavit, which is Exhibit 1942, that is NI-14499.

WE're ready to turn the witness over to the Defense for cross examination as to those two exhibits.

DR. WEYER: Weyer for Dr. Gajewski.

CROSS EXAMINATION

DR. ERNST STRUSS

BY DR. WEYER (for Gajewski):

Q Dr. Struss, do you understand what exhibits we are concerned with?

A Yes.

Q Do you remember these exhibits or shall I put them to you once again?

A It would be better if you gave them to me again.

Q Exhibit 1941 is a chart about a compilation of the turnover figures of the various Farben Sparten and of firms connected with them.

DR. HOFFMANN: Mr. Commissioner, may I interrupt briefly and ask that the defendant Ambros be returned to the main courtroom? Dr. Duerrfeld too, please?

THE COMMISSIONER: Those defendants may be returned.

Q I shall repeat the question, Dr. Struss. Exhibit 1941 is a chart concerning the turnover of the three main groups of Farben and of subsidiary firms. In Exhibit 1942, which is your affidavit, you say that this is an original document of the TEA office, is that correct?

A Yes.

Q I only want to ask you one question. Was this chart only intended as a document for the TEA office? And did the TEA Office need it only for purposes of information and make it known to other gentlemen, for example, the members

of TEA, on the occasion of TEA conferences -- or otherwise?

A No, this chart was never made known to anyone else. It was drafted by me personally and served only my own purposes. I was in a position to furnish data not only for Farben but also for subsidiary plants, as far as their applications are concerned -- I was in position to present these credit applications and therefore it was logical that I also informed myself about the turnover of these plants.

Q May I then summarize that this compilation in this chart only served the purpose of your personal information in the connection you mentioned?

A Yes, and it did not leave my office.

DR. WEYER: Thank you, no further questions.

REDIRECT EXAMINATION

DR. ERNST STRUSS

BY MR. AMCHAN:

Q Dr. Struss, Exhibit 1941, NI-14273, which is the chart of turnover figures -- did I correctly understand you to say that you compiled that chart in connection with your official duties in the TEA?

A That's right.

Q Now, is it a fact that you made that compilation from official reports and data which were transmitted to you in your official capacity at TEA?

A Yes.

MR. AMCHAN: No further questions.

We have no further question of this witness and we have the witness Schmidt, who is here, whose examination has not been concluded, and we are ready to proceed with him, with your --

THE COMMISSIONER: Is the counsel here?

MR. AMCHAN: We can take a five minute recess while --

5 May 1948-A-MSD-23-5-Hasdorff (Lea)
Court VI, Case VI COMMISSION

THE COMMISSIONER: The witness may be excused and we'll take
a few minutes' recess.

(The witness was excused.)

(A recess was taken.)

THE MARSHAL: The commission is again in session.

THE PRESIDENT: The witness will take the stand. I believe the witness has been sworn. You may proceed with the examination of the witness.

DR. RUDOLF SCHMIDT, a witness, took the stand and testified as follows:

BY MR. AMCHAN:

If Your Honor Please, when the witness was last on the stand, we offered for identification as Exhibit 2341 a financial report from Dynamit A.G. addressed to the defendant Schmitz, dated 4 September 1944. At that time, we didn't have it sufficiently processed. We now offer that document in evidence, so the record will show as Prosecution Exhibit 2341, we offer NL15260, which is a letter from Dynamit A.G. to the defendant Schmitz, dated 4 September 1944, which deals with certain financial data which was discussed in the cross examination of the witness.

DIRECT EXAMINATION

BY MR. WEYER (For Dr. Gajewski):

Q. Dr. Schmidt, first of all I would like to come back to the question which the prosecution asked you at the beginning of your cross examination; that is, about your position in the DAG. If I understood you correctly, you were a member of the Vorstand, is that correct?

A. Yes.

Q. With the full responsibility of such a Vorstand member?

A. Yes.

Q. And what are you by training and profession?

A. Immediately after my assessor examination, I joined the DAG.

Q. That is, as a lawyer?

A. Yes.

Q. And in what fields did you specifically work?

A. When I joined the DAG, it was in the fall of 1912, I didn't even work in legal matters but just in the German business. I had been in Cologne before for the DAG and then I went to Hamburg, because the director of the German business who handled the sale of our German explosives as

per convention had assigned elsewhere. I directed this department at the time. In the fall of 1913, I became Prokurist. There was a whole lot of legal work to be done because the sale was regulated according to conventions with the other German explosive companies. It was never expressed in what capacity I was supposed to work there. In the spring of 1915 I was called into the Vorstand. As far as I know, we had no agenda for the Vorstand. It wasn't that the matters which were to be handled were distributed among the various Vorstand members, but automatically I did not handle anything connected with production or factories. All technical matters did not concern me; in other words, I had to take care of administrative and legal matters. I was not the lawyer for the company because we had our lawyers for that purpose. We had our legal office which was in our European office, and even when we were in Cologne after 1926 we had an attorney, Dr. Kolping.

Q. I think that suffices.

A. I didn't work in trials either. It followed quite obviously that whatever concerned legal matters came to my desk.

Q. Thus if I understand you correctly, Dr. Schmidt, you were a Vorstand member and thus you worked in the direction of the DAG and the main point of your activity was, according to your special training, in the field of administration?

A. Yes.

Q. Who specifically handled technical matters within the Vorstand?

A. Only Dr. Mueller. He was the only one; and later Dr. Funk in the plastics field.

Q. And another question. Within this Vorstand who, if I may ask it that way, held the predominant position?

A Dr. Mueller, absolutely.

Q Id you draw a comparison with Farben after 1930 with what personality in Farben would you compare Dr. Mueller?

A With Dr. Bosch?

Q And I want to ask you the following. At the beginning of your examination, you gave explanations about your affidavit, DAG Document 7. That is to say, explanations and corrections.

A Yes.

Q In this connection, you mentioned that the knowledge of the facts which you listed was recalled to you now through the documents which, at the request of the Prosecution, were located in Troisdorf and given to the Prosecution, is that correct?

A Yes.

Q When executing your affidavit, DAG Document 7 did you know about these documents?

A No.

Q If you had no knowledge about these documents, wasn't it possible, to the best of your recollection, to execute your affidavit in any other way, is that how I understood you? In other words, you executed it to the best of your conscience without knowledge of these documents?

A Yes. If I had more documents I probably would have made a more detailed statement.

Q And you would have corrected it even if you had seen the documents without knowing that the Prosecution . . .

A Well, I could have mentioned what data these were. I only said in regular intervals we reported about financial matters and similar matters.

Q May I summarize and say that it was not the circumstances that the Prosecution asked that these documents be located that caused you to make your explanations?

A No.

Q In your affidavit, DAG document 2, you mention a conversation with Geheimrat Bosch in the presence of Dr. Mueller and Dr. Gajewski. Can you remember this conversation took place after the institution of the so-called Sparte in Farben?

A Yes, only recently I did not know about it, but I thought it was shortly after our conference, because we discussed the organization, but after I recalled that Dr. Gajewski and the Sparte was only formed in 1929, and the fact that Dr. Gajewski was director of Sparte III, only constituted the premise for that conversation, I realized that it was after 1929 presumably. A little later.

Q Do I understand you correctly, then, that this formation of Sparte in Farben gave the cause for the conversation?

A Yes, the grouping of DAG into Sparte III.

Q You say, in your affidavit DAG 2, that this incorporation of DAG into Sparte III did not mean that the DAG was subordinate to the director of the Sparte?

A Yes.

Q Did I understand you correctly, that in the cross examination you confirmed the fact that a written directive to this effect did not exist to your knowledge?

A I don't know of any.

Q Don't you agree with me that paragraph 1 of the community of interests agreement which you mentioned in your affidavits already contains, on the whole such a delimitation of competencies?

A Yes.

Q So that the additional decision of Mr. Bosch in 1930 was actually only a further confirmation of this policy?

MR. AMCHAN: The agreement between DAG and I.G. of 1926, or the Interessengemeinschaft agreement of 1926 which relates to the foundation and organization of Farben is in the food record.

I do not believe it would serve any useful purpose for Counsel to ask the witness to interpret any particular portions of that agreement. The document, of course, speaks for itself. Whatever conclusions are to be drawn therefrom is for the Tribunal and I have to object to questions along this line to be or about to be directed to the witness, asking his opinion as to the meaning or construction of certain designated portions of that agreement.

DR. WEYER: The question was asked in order to clarify whether there wasn't, after all, a certain delimitation of competencies in written form, and the Prosecution asked the witness about it in cross examination, and in this connection I am interested in finding out how the witness, as a former Vorstand member of the DAG, interprets paragraph one of this agreement. I asked the question for that purpose.

BY DR. WEYER:

Q In reference to the decision mentioned above, the decision of Mr. Bosch at the Heidelberg conference, I want to ask the following question. During the cross examination, you were asked where the source of authority lay for this decision. You have already mentioned the position of Bosch in Farben. Was such a decision of Bosch in these matters decisive?

A Yes, I assume so. For us Geheimrat Bosch was the authority. He was chairman of the Vorstand. In other words, he represented the Farben Vorstand to us. He only had to deal with the Vorstand of Farben.

Q And as regards his personality too, he was the decisive factor?

A Yes, absolutely.

Q In connection with that, you were also asked whether the DAG would have had the liberty to conduct its business the way it pleased. How could you answer this question in reference to the current business of DAG?

A Well, conducting their business as they pleased? As far as sales were concerned, we were the only ones who dealt in explosives, fuses, and

ammunition, who produced such products and sold them. There was no one who could have interfered with us as to how or through whom we were supposed to conduct this business. We had our sales companies, and no member of Farben was in them. This explosives business was conducted by the explosive sales company. There were only the Vorstaende of the explosive companies that is for us, Dr. Mueller and I, but nowhere not even in the celluloid sales company, were there representatives of Farben.

Q If I understand you correctly, in the above mentioned sector of the sales of the products of DAG, you were completely independent?

A Yes.

Q And what about the questions of production? Was Dr. Mueller just as independent in this respect?

A Yes, in production yes. Absolutely.

Q To what extent did Farben exercise a control over DAG?

A What was that question?

Q To what extent did Farben exercise any control over DAG?

I am thinking of the technical committee and the credits.

A Well there was a technical committee. There was a purchasing commission and the DAG was a member of it. The Prokurist who was in charge of purchases was in the purchasing department of Farben and mutual purchases of raw materials were discussed, and there were certain advantages which we had as a subsidiary of Farben.

Q But I don't mean those things. I asked you as to how far there were restrictions on DAG's liberty to conduct their business the way it pleased.

A If we had conducted our business in such a way that Farben would not have agreed to it, we probably would have been asked about it, then we would have had a discussion about it.

Q Did this ever practically happen?

A I don't know.

Our results went into Farben, and therefore we just couldn't do what we wanted, but there was no agency of Farben which checked up on our business or controlled or participated in it.

Q Then, I understand you to say that in this connection you adapted the business to the control of the expenses, the control of the credits in the Tea and to the financial interest of Farben?

A Yes.

Q Was this independence of DAG in conducting its business also valid for military installations and military products?

A What was that?

Q I will ask the question once more. What you just said about the independence of DAG in conducting its business, was this also true for military production and military installations?

A The independence was even greater there.

Q In this field, was there intervention on that part of Farben at all?

A No.

Q. Dr. Schmidt, in this connection the Prosecution showed you Document 14097.

A. 14097? Yes, that is right.

Q. Exhibit 2155.

A. Of 5 February 1941.

Q. Yes. Do you have that?

A. Yes, I have got it here.

Q. What date did you just say?

A. 5 February 1941.

Q. The date has already been corrected for the record. It should say 5 February 1934. We also see that from the date stamp it was received by the Secretariat of Dr. Gajewski.

A. Yes.

Q. This concerns an approval for expenditures which are necessary for the transfer of a plant of electrical fuses, and this is an approval by Dr. Gajewski?

A. Yes.

Q. Is this procedure unusual in any way, or is this a normal approval of a credit?

A. This is a normal credit approval.

Q. This factory of electrical fuses was a purely civilian plant?

A. A purely civilian plant?

Q. And what were these fuses supposed to be intended for?

A. For fuses used in mining.

THE COMMISSIONER: It is now five o'clock and I think it is a good shopping place.

DR. WEYER: Only one or two questions.

THE COMMISSIONER: One more question?

DR. WEYER: Yes, one more. Five minutes.

THE COMMISSIONER: All right.

Q. The Prosecution also showed you Document 15164 in this connection. This is exhibit 2157. This concerns a session of the chemical committee of 19 April 1947?

A. Yes.

Q. According to that this commission did not comply with the desire of Troisdorf to erect a formaldehyde plant. I want to ask you the following: Isn't formaldehyde a preliminary product for the manufacture of plastics?

A. Yes, it is only a preliminary product for plastics.

Q. Is it correct that after the delimitation of interests between Farben and DAG, such preliminary products were produced by Farben, and doesn't this refusal therefore correspond to the basic delimitation of interests?

A. The plastic field was the only field in which our interests met. It was the only field where Farben worked and where DAG worked. I still know that Dr. Mueller had a special expression for that. We did not make any raw materials. We processed raw materials into finished plastic masses, and there was the delimitation as between Farben and us as to how far Farben should work in this, and we. We didn't in general make raw materials for plastics. The pressed mass was the ready product as far as we were concerned. We got raw materials for this from Farben, and I said, that year in Leverkusen such a plant was supposed to be constructed, and we wanted one too, and then Farben said, "There is no use to have plants at two places, because we can easily transport it from Leverkusen". This formaldehyde, that is.

Q. And if I understood you correctly this decision also corresponded to the basic delimitation of fields according to which the DAG was in charge of the processing of preliminary products delivered by Farben. Mr. Commissioner, since we have longer questions to the witness, we would propose that the session be interrupted now and continued tomorrow morning.

THE COMMISSIONER: Very well, the commission will be in recess until 9:30 tomorrow.

DR. WEYER: May I make one comment for the interpreter

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11812-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauor	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pres.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savolsberg	14387-14424
11 May 1948	Karl Hunscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14182-14194


During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11468
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	-7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

1948
6 May-M-IL-1-1-Stewart (Int. Katz)
Court VI Case VI

OFFICIAL TRANSCRIPT OF THE AMERICAN MILITARY TRIBUNAL
NO. VI, IN THE MATTER OF THE UNITED STATES OF AMERICA,
AGAINST KARL KRAUCH, ET AL, DEFENDANTS, SITTING AT
NUERNBERG, GERMANY, ON 6 MAY 1948, JUSTICE SHAKE
PRESIDING.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: You may make your report, Mr. Marshal.

THE MARSHAL: May it please Your Honors, all of the defendants are
present, save defendants Haefliger and Hoerlein absent due to illness,
and the defendants Schmitz and Gajewski, absent excused.

THE PRESIDENT: Are there any announcements from counsel?

DR. SILCHER: I ask that Dr. Gattineau be excused from this
afternoon's session, so that he can attend the Commissioner's hearing.

THE PRESIDENT: That request is granted.

DR. NATH: I make the same motion for my client, Dr. Ilgner, who
also wants to attend the Commissioner's hearing this afternoon.

THE PRESIDENT: That request is likewise granted.

Gentlemen, the Tribunal had expected at this time to be in position
to rule with respect to the motions to strike documents contained in the
Prosecution's Book 92, and offered by way of rebuttal. However, in our
conference last night, we discovered that there was one motion relating
to some 8 documents that had apparently been filed by Dr. Schubert on behalf



of the defendant Buergin. We could not find that motion. We did have the Prosecution's answer to it. Will some of you gentlemen of the Defense call that matter to the attention of Dr. Schubert and ask him to see that we get a copy of his motion?

MR. SPRECHER: Perhaps by inadvertence we are the culprits. We did get two, but I did not think we were expected to pass one on to you.

THE PRESIDENT: That will solve it, if you will see that we get it. Now, in order to keep up as nearly as possible with the schedule, we will announce our ruling on the motions relating to all of the other documents in the Prosecution's document book 92, excepting, however, those involved in Dr. Schubert's motion.

The Tribunal now sustains the objection, and strikes from the evidence the following exhibits contained in the Prosecution's Book 92: Exhibits 2155, 2156, 2157, 2158, 2161, 2162, 2163, 2164, 2165, 2166, 2169, 2171, 2179, and 2183.

The Tribunal overrules the motion to strike Exhibits 2159 and 2160.

With respect to Exhibits 2180, 2181, and 2182, we discovered that those Exhibits had been marked for identification only, and are not in evidence. They each relate to matters which the Prosecution urges are such as are subject to judicial notice. If they are proper subjects of judicial notice, they need not be in evidence in any event. That presents a legal question, which, if it is deemed of sufficient importance, can be treated in arguments and in briefs.

Now, we shall, as soon as we are able, rule on the motion of Dr. Schubert with respect to all of the other Exhibits in Book 92 that

are subject of objections..

With respect to the Prosecution's documents in Book 93, please see that before the end of the day we have your comments in regard to those matters, because if today's session is short, as it may be, the Tribunal would like to dispose of the matters in that book next, and then follow with Book 94.

Now, are we in position to receive some of the remaining documents in evidence this morning? I do not see Dr. Hoffmann here.. Dr. Berndt is here. Dr. Berndt are you ready to present some documents?

DR. NEILTE, (counsel for the defendant Hoerlein): Mr. President, Your Honors have before you a supplement, Hoerlein Document Book 6. These are five affidavits which have the same contents, with the exception of the names of the affiants, as numerous other affidavits already presented. In connection with the statement made during the session of 26 April, when the names of the affiants were already communicated to Your Honors, I should now like to offer these five documents into evidence:

Hoerlein Document 151, an affidavit of Dr. Paulmann, will become Exhibit 138;

Hoerlein Document 152, an affidavit of Joseph Schmitz, will become Exhibit 139;

Hoerlein Document 153, an affidavit of Dr. Duisberg, will become Exhibit 140;

Hoerlein Document 154, an affidavit of Dr. Josef Grobel, will become Exhibit 141;

Hoeerlein Document 155, an affidavit of Georg Tessmer, will become Exhibit 142.

THE PRESIDENT: We note that Dr. Hoffmann has arrived, and also that Dr. Berndt is here. Can you gentlemen arrange among yourselves as to which one has the most time here to introduce your documents? It makes no difference to us, gentlemen.

Dr. Berndt, are you attending a commissioner's hearing this morning?

DR. BERNDT: Yes, Your Honor, at 10 o'clock.

DR. HOFFMANN: I also am.

THE PRESIDENT: Dr. Berndt, may I suggest that if it is the same with you we will let Dr. Hoffmann go first, because we think he has the smaller bunch of books, and we can clear up one group perhaps quite quickly, if it is agreeable to you, and then we will give you as much time as you have.

DR. BERNDT: Very well.

DR. HOFFMANN: (Counsel for the defendant Ambros): Mr. President, from Document Book 1-b I submit Document OA 138 as Exhibit 195, from Document Book 2-b I submit Document OA 218 as Exhibit 196; Document OA 219 will become Exhibit 197; Document OA 220 will become Exhibit 198. From Document Book 3-b I submit OA 327 as Exhibit 199.

THE PRESIDENT: Just a moment, Doctor. You may go ahead.

DR. HOFFMANN: From the same book, Document Book 3-b, I submit Document OA 328 as Exhibit 200.

From Document Book 4-b, I offer OA Document 425 as Exhibit 201;

6 May ~~1945~~ ~~1-5~~ Stewart (Int. Katz)
Court VI Case VI

Document OA 426 will become Exhibit 202;

From Document Book 5-b, I submit OA Document 519 as Exhibit 203;
OA Document 520 will become Exhibit 204.

Mr. President, these are all the documents that have been translated up to this time.

JUDGE HEBERT: Just one minute, Dr. Hoffmann. Do I correctly understand that you are not offering OA 136 and OA 137? Those documents are included in Book 1-b. You are not offering those?

DR. HOFFMANN: Judge Hebert, the Tribunal had ruled that those two documents in Book 1-b were cumulative, and I had agreed to that, but unfortunately they were retained in the index. Do not put a question mark, but an exclamation mark in the index.

COURT VI CASE VI
6 May 48-2-1-11-AMH-Stewart (Katz)

JUDGE NEEDLE: I see. Thank you.

THE PRESIDENT: Now, Dr. Berndt, we will hear you.

DR. BERNDT: I have to offer a number of documents for Degesch. I have the original documents with me and can hand them to the Secretary General. Unfortunately, I am not able to hand them to Your Honors because I have no translations of these documents as yet, but may I nevertheless give an exhibit number to these documents and hand them in later?

THE PRESIDENT: I am afraid, Dr. Berndt, that with the details with which we are troubled now, we had better pass that until Monday, when we are going to permit everybody who is in that situation to do that very thing. May I ask you now, for my own information, about your Supplement 2 to Degesch Book 2; are you ready to offer those documents? Only one. Oh, it is number 60. I am sorry, it has been offered, I assume; is that right?

DR. BERNDT: Mr. President, that has been offered, and that is Exhibit Degesch 60.

THE PRESIDENT: Thank you.

Now, what about your books on the Economic Regulations in the Third Reich? Are you ready to present them?

DR. BERNDT: I do not have them with me, and not all of the copies that are must be handed in subsequently have been finished by the mimeographing department.

THE PRESIDENT: We have apparently three books of that character. Is there someone that you could send and have your books brought in and get them numbered and get that much of it out of our way? And then we will allow you to supplement it on Monday. Could you do that?

DR. BERNDT: You want me just to assign the exhibit numbers to these documents? I can do that, yes, certainly.

MR. SPEECHER: Your Honor, will you excuse me for just a minute then, so I can get mine?

THE PRESIDENT: Yes.

Dr. Berndt, we seem to have a Supplement Book 2 to Document Book 14

of the Defendant ter Iber, containing three documents, 159, 160, and 163. If you can do so, we would be glad to have you give the exhibit numbers of those at this time.

DR. DORHEIMER: Mr. President, those documents were already offered by me during the session on Friday and were given exhibit numbers, they were already accepted into evidence, after stipulation with Mr. Sprecher. They are exhibits 279, 280, etc.

MR. PRESIDENT: Thank you, counsel.

Dr. Silcher, would you step to the podium a minute?

DR. SILCHER: The only document book we will have left, after Dr. Berndt gets through, on our desks is your Basic Information Book 2. Did we understand that you had some special reason that you wanted to mark those with numbers during the presentation of your slides, or do you wish to have them given numbers in advance?

DR. SILCHER: I wanted to give part of those documents numbers as General Defense Exhibits.

THE PRESIDENT: Are you in position to do that now?

DR. SILCHER: Yes, Your Honor.

THE PRESIDENT: We have a memorandum Dr. Berndt, that the Exhibits in your supplement 2 to ter Iber Book 14, which are Documents 159, 160, and 163, have already been given numbers 276, 279, and 280 instead of 279, 280, and 281.

Can you put us right on that, so we will have no confusion?

DR. BERNDT: Please excuse me for a minute; I will check on it and tell you about it.

THE PRESIDENT: Very well. You may continue, Dr. Silcher.

DR. SILCHER: Mr. President, I must first ask you one question. Does that mean that I have to hand the original documents to the Secretary General simultaneously with assigning them numbers? If that is the case, then I would have to ask you to wait for 15 minutes, because I have to go and get them first. I do not have the originals with me.

THE PRESIDENT: If you have them, and will promptly after your

presentation give them to the Secretary, we will trust you that far, Dr. Silcher. There is no question about that. You may go ahead.

DR. SILCHER: The basic information of the Defense, Book 2:

Document 2 will become Exhibit No. 174;

Document 3 —these are all Defense Exhibits — Document 3, Exhibit 175;

Document 4 will become Exhibit 176;

Document 5, Exhibit No. 177;

Document 6, Exhibit No. 178;

Document 7, Exhibit No. 179;

Document 8, Exhibit No. 180;

Document 9, Exhibit No. 181;

Document 10, Exhibit No. 182;

Document 11 is only a reference and is not going to be offered. It will, therefore, not be given any separate Exhibit number, according to the manner in which the von Knieriem document book was handled yesterday.

Document 12, Exhibit 183;

Document 13, Exhibit 184;

DR. SILCHER: Document 14, Exhibit 185; Document 15, Exhibit 186; Document 16, Exhibit 187; Document 17, Exhibit 188; Document 18, Exhibit 189; Document 19, Exhibit 190, Document 20, Exhibit 191. The next three documents, 21, 22, and 23, are again merely references and will not get an exhibit number of their own. Then a supplement will be available by tomorrow, which is Document Number 24. Shall I assign that a number now?

THE PRESIDENT: No. Let's wait until Monday on that, Dr. Silcher. Now, Dr. Berndt, we are ready for you.

DR. BERNDT: Mr. President, my secretary has not arrived yet. She will be here any minute now.

THE PRESIDENT: Very well, we'll wait for you.

DR. BORNEMANN: May I say this in regard to Your Honor's inquiry: The three documents contained in Supplement 2 to Document Book 14 ter Meer were offered to Your Honors on 30 April, Document ter Meer 159, an affidavit of Mr. Howard, was given Exhibit Number 278. Document 160, an affidavit of Dr. Loehr, became Exhibit 279. The last document, ter Meer Number 163, an affidavit of Mr. Huotz, was assigned Exhibit 280. Pursuant to Your Honor's inquiry yesterday, I handed in these numbers to Your Honors in writing yesterday.

THE PRESIDENT: Very well.

DR. BORNEMANN: That clarifies that matter.

THE PRESIDENT: That takes care of that, counsel.

DR. BERNDT: Mr. President, in compliance with Your Honors' request, I am now going to submit the three books which are entitled

"Economic Regulations in the Third Reich"; at the same time I am going to hand the originals to the Secretary General. The explanations may be given in one of the subsequent sessions, if I understood Your Honors correctly. I shall give these documents General Defense Exhibit numbers; after the number that Dr. Silcher has just assigned, 191, my document 1 becomes Defense Exhibit 192.

THE PRESIDENT: Just a moment. Now, have we had any documents on regulations of economy of the Third Reich up until this time, or are these the first?

DR. BERNDT: These are the first.

THE PRESIDENT: Then you may go ahead.

DR. BERNDT: Then my Document 1 will become Defense Exhibit 192; 2, 193; 3, 194; 4, 195; 5, 196; 6, 197; 7, 198; 8, 199; 9, 200; 10, 201; 11, 202; 12, 203; 13, 204; 14, 205; 15, 206, 16, 207; 17, 208, 18, 209; 19, 210; 20, 211; 21, 212; 22, 213; 23, 214; 24, 215; 25, 216; 26, 217; 27, 218; 28, 219; 29, 300; 30, 301 --

THE PRESIDENT: What a minute. We have jumped from 219 to 300. Let's get back to --

DR. BERNDT: I beg your pardon. 29 will become 220, 30, 221; 31, 222; 32, 223; 33, 224; 34, 225; 35, 226. This concludes all the documents in Book 1, and now we turn to Book 2. Document 36 there will become Defense Exhibit 227; 37, 228; 38, 229; 39, 230; 40, 231; 41, 232, 42, 233, 43, 234; 44, 235; 45, 236; 46, 237; 47, 238; 48, 239, 49, 240. This concludes Book 2. In Book 3 my Document 59 will become Exhibit 241;

60, 242; ...

THE PRESIDENT: Just a moment, Doctor get back over in your Book 2. I think we are confused, perhaps, by a blank page. You have some more documents you did not get through there. The last one you offered was 49 as 240, and your 50 should be 241, as we have it. Then go ahead from there.

DR. BERNDT: The book ends with document - oh, yes, page 7 has been omitted in the index.

THE PRESIDENT: Very well, I will help you then until you got it. Your Document 50 will be your Exhibit 241.

DR. BERNDT: Yes, 241.

THE PRESIDENT: 51, 242.

DR. BERNDT: 242, yes, and 50 will become 243.

THE PRESIDENT: No, you have two 50's there. Let's straighten that out. Let's call that last 50, 50a.

DR. BERNDT: No, I just see that Document 52 on page 8 of the index would become 244.

THE PRESIDENT: Now we are not that far along. Get back to your page 7. Your Document 50 at the top of our page is to have Number 241.

DR. BERNDT: Yes.

THE PRESIDENT: The next one is 51, which we will give 242.

DR. BERNDT: Yes.

THE PRESIDENT: Now you have another 50.

DR. BERNDT: That is a mistake. That should be 52.

THE PRESIDENT: Then if you do that you will have a 52 on the next page. Now, let's call this last 50 ---

DR. BERNDT: Yes, then we can make it 52a and that takes care of that mistake.

THE PRESIDENT: Let's make the last 50, the one that follows 51, 50a, and give it number 243, and we are through with that page; and then get over to the other page and start over again, and I believe you are all right, Doctor.

DR. BERNDT: Mr. President ---

THE PRESIDENT: Here's what your trouble is --- no.

DR. BERNDT: I didn't follow this time.

THE PRESIDENT: Very well. Let me help you now. Now, we are on page 7.

DR. BERNDT: I repeat. On page 7 at the top there is Document 50. That will be Exhibit 241. Then there will be Document 51 which will become Exhibit 242. Then there is Document 50, and that should become 51a and become Exhibit 243.

THE PRESIDENT: Very well. Now we have it. I can tell you are going to run into trouble a little later, but we will wait until we get to it. Now, on the next page is Document 52, Dr. Berndt.

DR. BERNDT: On page 7a there is no document number. On page 8 of the index there is now Document 52. That will become Exhibit 244.

THE PRESIDENT: Very well.

DR. BERNDT: Then on page 9 of the index, the first document is 53, which will become Exhibit 245.

THE PRESIDENT: Now, you are in more trouble.

DR. BERNDT: And now there is another mistake, after no. 53 there comes 52, and that is wrong. I therefore ask that that should be called 53a and become Exhibit 246.

THE PRESIDENT: That is satisfactory.

DR. BERNDT: Then there is Document 54, Exhibit 247. Then please turn to page 10, which begins with Document 55, and that will become Exhibit 248; 56, 249; 57, 250; 58, 251. And I believe that really concludes Book 2 this time. We have, however, a supplement No. 2 to Book 2. I hope that your Honors have received that already.

THE PRESIDENT: We do not seem to have it,, Dr. Berndt. We have one copy of it. Is that just one document?

DR. BERNDT: There are four documents. 54a, b,c, and d, and all of that is Document No. 81.

THE PRESIDENT: Just a moment. That seems to be a Document No. 81, pages 54a, b,c, and d. Is each page a separate —

DR. BERNDT: Yes, Mr. President.

THE PRESIDENT: But not separate documents?

DR. BERNDT: It's only one document, No. 81, and I ask that that document be marked as Exhibit 248.

THE PRESIDENT: Just a moment, Dr.

DR. BERNDT: No, no -- it should become 252.

THE PRESIDENT: Very well.

DR. BERNDT: Now I want to continue with Document Book 3.

The first document is on page 3 of the index, Document 59. This will become Exhibit 253. Document 60, 254; 61, 255; 62, 256; 64, 257.

THE PRESIDENT: Now, Dr. Berndt, I am wondering if we shouldn't change that 64 to 63, because when you get to the next page you will have a 64 and you do not have a 63. Will that be all right? At the bottom of that page to make that one 63 instead of 64? Look over on your next page and you will see it.

DR. BERNDT: I believe your suggestion is a good one, Mr. President.

Then Document 64 on page 3a should be changed to Document 63. That will become Exhibit 257. Then on page 4 of the index, Document 64 will become Exhibit 258; 65, 259; 66, 260; 67, 261; 68, 262; 69, 263. On page 5, 70, 264; 71, 265; 72, 266. On page 6, 73, 267. On page 6a there is no separate number. On page 7, Document 74 is Exhibit 268; 75 is Exhibit 269. On page 8 there is again no number. Page 9

THE PRESIDENT: Wait a moment. Now get back to Document 267. I mean your Exhibit 267, which was Document 73. Let's start from there again.

DR. BERNDT: Document 73 on page 6 will become Exhibit 267.

THE PRESIDENT: Very well. Then 74 will be 268.

DR. BERNDT: Yes.

THE PRESIDENT: Now we have another, 73.

DR. BERNDT: I beg your pardon, that reads 75.

THE PRESIDENT: Well, if we will do that we'll get in a little trouble on the next page. Let's make that 74a, is that satisfactory?

DR. BERNDT: Yes. Then that document should be called 74a.

THE PRESIDENT: Now, get over on the next to the last page and you have a 75.

DR. BERNDT: That is on page 9, 75. That will become 270. Then 76 to 80 — 76 will become 271; 77, 272; 78, 273; 79, 274; 80, 275, and that provides all of the documents with Exhibit numbers.

THE PRESIDENT: Wait a moment. You've got a 76 down there again now. We'd better change that to a 76a at the bottom of your page 9.

DR. BERNDT: Mr. President, on page 9 there are only two documents listed — 75 and 76.

THE PRESIDENT: I don't think our German and English books run alike. That is part of our trouble here. But following the documents that you had — 76 to 80 —

MR. SPRECHER: Mr. President, I think I can help out on this. Where the first listing is 76 through 80, that is more or less just an over-all title, and Dr. Berndt really wants to begin down below with 76 where it lists the corporation tax law of 16 October 1934.

THE PRESIDENT: Very well. We understand that now, Dr.

DR. BERNDT: May I then ask that I be permitted to make this statement? The economic regulations have eighty documents, and the last Exhibit No. is 275.

THE PRESIDENT: That is correct. Now, counsel, as far as we are

May 6 48-M-DC-4-4-Mills (Katz)
COURT VI, CASE VI

advised, this Tribunal is in an unusual situation. For the first time since the 27th of last August we have no documents on our desk to be received in evidence. There probably will be some coming in during the day from the processing agency. Aside perhaps from making some announcements and having some understanding with reference to our future activities, there doesn't seem to be any reason for the Tribunal remaining in session today. I shall ask Judge Hebert, who has charged his mind with keeping track of our program, to review the situation so that there may be no misunderstanding, before we do recess.

JUDGE HEBERT: The situation, as the Tribunal understands it, as of the present time is that the following are the only outstanding matters of which we are advised:

On tomorrow morning, that is, Friday morning, Dr. Silcher will show the lantern slides and conclude the presentation of the matter that we have called basic information.

Also for tomorrow Dr. Nath, under a reservation previously made, will recall the defendant Kuehne to the stand for some questions on documents, in accordance with an understanding reached with Dr. Lummert some time ago.

On Monday, Dr. Hoffman, as counsel for the defendant Ambros, has one witness whom he expects to have available for examination at that time.

On Monday afternoon, in accordance with the general announcement previously made by the President, all of the outstanding documents will then be introduced in evidence. They will be given numbers, even if they should not be available in the English or in the final processed form.

There is also the matter of the possibility of a witness for the defendant Kugler being available on either Monday or Tuesday. It was previously indicated to us that if that witness appears that he would be examined here, so that is set for Monday or Tuesday, depending upon the availability of that witness.

We also understand that Dr. Berndt has a witness who is to be examined in connection with the subject matter of economic regulations in the Third Reich, and that witness cannot be available before Tuesday, May 11. We

will hear the witness at that time.

Now, those matters conclude the schedule of the outstanding evidence as we understand the situation, of course, with the reservation of any matters that are pertinent and proper in connection with the handling of the entire rebuttal problem which is now before the Tribunal.

THE PRESIDENT: Are there any announcements or inquiries before we recess until tomorrow morning?

MR. SPRECHER: Mr. President, two things. Here's the copy of Dr. Schubert's motion which I'll pass up to you immediately.

THE PRESIDENT: Thank you, counsel.

MR. SPRECHER: And, secondly, Mr. President, I personally misunderstood you. I understood you to say that today the objections to motions in Rebuttal Book 93 would be in. Yesterday I thought you said for both 93 and 94.

THE PRESIDENT: I noticed we had some of your responses with respect to 94, I think.

MR. SPRECHER: I made responses yesterday evening up to eight o'clock to all three books, 92, 93 and 94. But my point is, does the defense have until this evening at eight o'clock to get in objections to 93 and 94 or just 94.

THE PRESIDENT: Last night I understand was the end of the other one.

MR. SPRECHER: Then I misunderstood you this morning.

THE PRESIDENT: Dr. Siemers, I think I probably know what is worrying you with reference to your motions on 94. If you have something

else, I'll just say to you that we were in session last night until eleven o'clock and we thought we could anticipate that we would have a little daylight today because of the short program and we will take up immediately and that is the next order of business with us to pass on that motion. Do you have anything else?

DR. SIEMERS: Yes, Mr. President. I don't want to urge this point on Your Honors, I thought it was perhaps too much for you, but for order's sake I wanted to point out that I had another witness approved by Your Honors who has not yet arrived. That is Josco von Puttkamer who is to come from Landsberg.

May I remark that it's perhaps unnecessary to examine him but I am told that he is going to arrive today so that I can't speak to him before tomorrow. I hope that it won't be necessary to hear him, but if it is necessary it will be a very brief examination because I am only going to treat a few questions.

THE PRESIDENT: Will you please keep Judge Hebert advised as to what your situation is?

DR. SIEMERS: Yes, Your Honor, of course.

DR. MUELLER: Mr. President, may I ask that a few of the defendants who desire it be permitted today to continue their work in the Document Room that they couldn't complete yesterday?

THE PRESIDENT: If you will give their names to the Marshal, we shall direct the Marshal to make the arrangements.

MR. SPRECHER: Since that point has come up I might just mention that the prosecution, to the best of its ability, has put all documents

originating from Farben files, without any reservations as to either cross examination or rebuttal, in that room as of yesterday.

THE PRESIDENT: Thank you very much.

DR. TRABANDT (Defense Counsel for the defendant Duerrfeld): Mr. President, I have a short announcement. We have a witness approved by Your Honors. We haven't examined him as yet. You may remember that there is something left over from the time when we presented our case. I hope that I can get the witness here by tomorrow and perhaps it will be possible that, after the agenda announced by Judge Hebert, this witness might perhaps be examined tomorrow.

THE PRESIDENT: Counsel, will you take that matter up informally with Judge Hebert and he'll speak for the Tribunal in making whatever arrangements are necessary with regard to the subject.

DR. TRABANDT: Thank you very much, Mr. President.

THE PRESIDENT: Now, gentlemen, is there anything further? Perhaps I should say that I am not advised whether the Commissioner is going to be in session all day or not, but, if there are Commissioner's hearings going on and any of the defendants are interested in attending the Commissioner's session, we will arrange, through the Marshal's office, to have the defendants excused so that they may attend those sessions.

Now, gentlemen, if there is nothing further we're about to recess. Permit me to say that inasmuch as our time is growing short we will appreciate your cooperation, gentlemen, in bringing things to the attention of the Tribunal promptly and in arranging your program so that we may not, on the last day, have too many details to burden our minds about.

6 May 1948-M-DJG-5-5-Leonard (Katz)
COURT VI, CASE VI

The Tribunal will now recess until 9:00 o'clock tomorrow morning.

(A recess was taken until 0900 hours, 7 May 1948.)

6 May 48-44B-2-1-Spears (Int. Auclich)
Court No. VI, Case No. VI - Commission

Official Transcript of hearing before a Commissioner
for Military Tribunal VI, Case VI, in the matter of
the United States of America against Karl Krauch, et
al, defendants, sitting at Nurnberg, Germany, on
6 May 1948, Commissioner Johnson T. Crawford, pre-
siding.

THE MARSHAL: The Commission of Tribunal VI is now in session.

COMMISSIONER: The defense counsel may proceed with the examina-
tion.

DR. WEYER: Weyer for Dr. Gajewski

REDIRECT EXAMINATION - Continued

RUDOLF SCHMIDT - Resumed

BY DR. WEYER:

Q Dr. Schmidt, resuming our discussion of yesterday, I would
like to ask you in connection with the prosecution document 14099
whether you have that document in front of you?

A Yes.

Q This is Exhibit 2156. This is a letter from Dr. Gajewski
to Dr. Paul Mueller of 28 March 1934. It concerns the representation
of the credit applications in the technical committee of Farben. Can
you tell me how the normal procedure was when you tried to get new
funds from the TEA for the DAG?

A I myself had nothing to do with that. I know that we had
application forms which were very large and there it said, "subject
matter, the reason, the amount", and we handed these forms in to Sparte
III. What Sparte III did with these forms I do not know. I only remember
having seen minutes of TEA sessions which contained the decisions on the



applications.

Q Then I understand you to mean that these credit applications were given to TEA via Sparto III insofar as you know?

A I think so.

Q In this letter the question is, who during these discussions about the need for such expenditures in the technical committee of Farben represented the interest of DAG. Is it correct that Dr. Paul Mueller handled this because, with respect to the spheres of work in the DAG, Dr. Gajowski did not have the specialized knowledge about this in order to be able to decide on the need for the expenditures?

A I myself was not present during the TEA meetings.

MR. ANCHAN: We will let the answer stand. The objection I am about to make is to any further interrogations along this line because the witness has testified that he personally did not participate in any of these credit matters in the TEA. Now, to ask him about a letter from the defendant Gajowski addressed to Mueller of DAG, after the witness has testified that he personally did not participate in that affair, is in our view asking an irrelevant question.

DR. WEYER: I put the question because the same subject matter was mentioned by the prosecutor and with reference to this same letter. Apart from that, I want to learn from the witness what he knows about this matter, even if he himself was not present in the TEA. That is why I put the questions, and those questions which I shall put now.

BY DR. WEYER:

Q Dr. Schmidt, did you know this letter, Exhibit 2156 at that
13652

time when it was written?

A This letter of 23 March, I presume so, but I do not remember having read this letter.

Q Is it correct that Dr. Gajewski discussed this matter with you in particular?

A I assume so, according to this letter. This is shown by the fact that Dr. Gajewski writes "Dr. Mueller had not been present, therefore, he talked to me." That was the thing to do. If Dr. Gajewski called up and Dr. Mueller was not present, he would ask for me.

Q Therefore, I can say that you yourself were concerned with this matter at the time.

A Yes.

DR. WEYER: The prosecutor asked me to say that in view of this fact he withdraws his objection to those questions.

BY DR. WEYER:

Q May I ask you again whether it is correct that at that time the reasons cited by Dr. Gajewski for this were that, as a result of the various spheres of work, he himself did not know enough about the field of Dr. Paul Mueller in order to be able to decide on the credit applications?

A Since Dr. Mueller was present during the meeting of the TEA and Dr. Mueller was best able to see what was needed, it seemed the proper thing to do, and I gather from the description of Dr. Mueller about the sessions that he discussed the reasons and not Dr. Gajewski. In this connection, may I refer to a document which the Mr. Prosecutor

submitted to me on Friday.

Q Would you please state the number? You mean the Document 13534?

A This document is a letter from Farben in Wolfen to the Kreisstabführung in Leipzig, of 13 March '45. In it Dr. Gajewski's position in relation to us is described so well that I could not do it better myself. It says here, "Dr. Gajewski is a member of the Vorstand and also of the Central Committee of Farben, he is in charge of Sparte III. In this capacity he is in charge of the following plants: No DAG plant is included there. The firm Kalle, etc. also belongs to his Sparte, that is, no DAG firm. Then, apart from that, he is the "Verbindungs-mann" between Farben and DAG, the liaison man, that is. The last sentence is also interesting. Altogether he has a staff of approximately 39,000 employees to take care of. This does not include the employees or workers of DAG. Wolfen does not list us being under Dr. Gajewski's direction or care, but they describe him as a "Verbindungs-mann", and I consider Dr. Gajewski's capacity in the TEA in the same way.

DR. MEYER: May I state for the record that this concerns the Prosecution Exhibit 2339.

Q Dr. Schmidt, you have already answered a few questions which I intended to put to you, but since we are talking about this, I would like to refer again to the applications for credit to the TA. According to what you just said, if I understood you correctly, one of the functions of Dr. Gajewski as Verbindungsmann was that the credits to be handed in were handed in via his Sparte?

A Yes.

Q As for justifying the need for these credits, this justification was stated by Dr. Mueller in the TEA session? Did I understand that correctly?

A Yes, because he was the expert.

Q Can you tell me from your own knowledge whether Dr. Gajewski is an expert in explosives, specifically?

A As far as I know, no.

Q And who was the best known expert in Germany?

A Mueller, and our specialized chemists and the directors of the factories.

Q Then applying for credits wasn't there a field which was not passed on to the TEA?

A The military field.

Q Do you mean explosives for military purposes or gunpowder for the army?

A Military explosives, yes, all those matters which we supplied to the Army Ordnance Office, anything connected with that, even real estate.

Q If I understood you correctly, no application for credit in that connection went via Sparte III to TEA?

A No, not to TEA at all.

Q And not to Sparte III either?

A No.

Q Dr. Schmidt, let me now discuss another question which the prosecution mentioned. It is the question of the technical cooperation between Farben and DAG. May I ask you again, you did not handle technical questions at all?

A That is correct.

Q Can you then tell me anything at all about this from your own knowledge?

A Nothing definite.

Q The prosecutor asked you whether such cooperation took place, and if I remember correctly you answered such technical cooperation did exist?

A Yes.

Q May I ask you what you understand by this technical cooperation?

A What I call technical cooperation -

Q May I ask my question a little more precisely in view of what the prosecution discussed with you. I am thinking in particular of technical cooperation between DAG and Sparte III of Farben. Would you please answer the question with that modification?

A Yes, that is a great limitation. Technical cooperation with Sparte III, I know nothing about that. I talked about Farben. I know

that some of our gentlemen were in the commission for plastic production. I know of many visits in Ludwigshafen because the plastic field was the field in which the work of both firms overlapped. I know from Leverkusen that we were in a traffic commission. I call anything technical that is not commercial or legal, that is, which did not concern the purchasing commission.

Q I would like to concern myself mainly with the technical cooperation, that is, in engineering and chemical respects. You just answered my question to the effect that an exchange of technical know-how took place with Ludwigshafen or Leverkusen. I would like to refer again to questions which we discussed at the beginning. Wasn't the cause for this cooperation or this exchange of know-how the fact that Farben, as has been repeatedly mentioned in this trial, to a large extent made the preliminary products for the plants of D&G which used them for production in the plastic field?

A Yes. Farben supplied these preliminary products because Farben had specialized people who could advise us in technical questions, for example, questions of heating. Our chief engineer came from Farben. I know we were in a sulphuric acid commission.

Q If I understand you correctly it is like this; that this entire cooperation resulted from the fact that Farben, as was mentioned here repeatedly, to a large extent supplied preliminary products for the products which D&G made?

A Yes.

Q In this connection I would like to ask you, wasn't such an exchange of know-how or such technical cooperation between firms, of which one used the preliminary products of the other to a large extent, something quite customary?

A Yes, of course.

Q Therefore, it is no specific Farben cooperation which had anything to do with the community of interests agreement but it would have also taken place without that because Farben supplied you with all

these preliminary products?

A Yes.

Q Thank you.

A May I add, we cooperated as well with certain explosives companies concerning the production of explosives, and also with the celluloid firms, about the production of anything that has to do with the celluloid sales combine, in particular about the raw materials, and about the expenses of production and security measures in the production of explosives. We exchanged know-how with Dupont and ICI, too.

Q Do I understand you correctly when I summarize that due to the technical situation, in which some firms supplied preliminary products and other firms again processed these products, such a cooperation is bound to take place?

A Yes, it is quite customary. For example, when producing plastics we had a special technical advisory office for the processing of our plastic material, and we had our own testing plant merely for the purpose of testing our preliminary plastic product.

Q And did I understand you correctly that the firms who in turn used your products cooperated with you similarly?

A Definitely.

Q Even though any connection with your firm did not exist?

A Yes.

Q I would like to ask you, did the cooperation in the manner you just mentioned take place also in the explosive field, in particular in the field of military explosives, between Farben and DAG?

A I do not know.

Q In particular in connection with Sparte III, do you know of any such cooperation?

A I consider that impossible. I could only imagine that due to the utilization of raw materials -- I am thinking of E salt -- such an exchange of know-how might have taken place with factories which produced raw materials. I know that various processes existed for this.

Q But you know no details or positive facts about this?

A No, I do not know the composition of military explosives.

Q And therefore, there is no point in asking you anything further about it.

DR. WEYER: I have no further questions.

REDIRECT EXAMINATION

BY DR. GIERLICH (For Schmitz):

Q Dr. Schmitz, I would like to discuss with you once more the questions of the reports given by DAG to Farben in connection with your affidavit, in DAG document book 1. This is your statement of 1 December '47, DAG document number 7, defense exhibit number 7. In order to gain a clear picture of these reports I would like to ask you, Dr. Schmitz, to differentiate very clearly between reports given a) to Farben; b) to the Aufsichtsrat; and c) to Geheimrat Schmitz insofar as he may have received these independently of his position in the Aufsichtsrat. I attach particular value to this subdivision because I have the impression that as a result of the examination by the prosecutor the division between the various types of reports sometimes was slightly confused, perhaps sometimes through difficulties in translation.

First of all I would like to discuss with you the reports from DAG to Farben. You yourself said in your affidavit, DAG document number 7, on page 2, referring to the interest which Farben had because of the agreement for the community of interests in the business result of the DAG, that they pointed out that DAG regularly gave reports to Farben about the development of the turnover, the monies received and paid out, and similar matters. My first question is, to whom were these reports made? To whom were the reports sent?

A As far as I know, to the Farben Central Financial administration in Berlin.

Q. If I remember your testimony correctly when the prosecution questioned you, a remark was made as if these reports were addressed to the Vorstand of Farben.

A. No, not to the Vorstand. I cannot remember that we wrote any letters to the Vorstand of Farben. The reason was that I would not have known to whom we should have addressed it, to Frankfurt or where.

Q. Then may I summarize your testimony to the effect that these regular reports went to the Central Financial Administration of Farben in Berlin?

A. To the best of my recollection.

Q. What was contained in these reports?

A. Mainly the State of our finances, our receipts and the expenditures we expected?

Q. I would like to put the question differently. Do I understand your testimony correctly that when giving these reports this was exclusively a report about the financial conditions in DAG, that this is emphasized by the fact that this Central Financial Administration received these reports and that these reports were made as a result of the financial arrangements of the community of interests agreement?

A. I assume so.

Q. In these reports, according to your testimony in the affidavit, DAG document number 7, which you have confirmed during the cross examination by the prosecutor, the development of the turnover was also treated. First of all I would like to clarify one thing. In his inquiries the prosecutor described these reports which listed the goods sold, the recipient and so

forth, were reports ever made about that?

A. No, I never saw that.

Q. I would like to ask you now what you understand by development of the turnover in your report, DAG document number 7. Was that a general description of the turnover?

A. I assume so, but perhaps it was separated according to explosives and other matters.

Q. You do not remember these questions clearly, do you?

A. No.

Q. Dr. Schmidt, do you know whether in this description of the turnover given to the Central Financial Administration of Farben, the military factors were contained and if yes, together with the civilian explosives or separately?

A. I am sorry, I cannot remember what those reports looked like.

Q. In that case you can neither testify that the military explosives were contained in it ?

A. No, I am sorry.

Q. Nor can you say whether they were put down together with the civilian explosives or separately?

A. I cannot do that.

Q. As far as you remember, Dr. Schmidt, were copies of these reports which were merely made about financial matters, sent to any other agencies?

A. I do not know. I don't think so.

Q. About these reports to Farben, I would like to ask in conclusion,

did these reports to the central Financial Administration of Tarbon, contain any details about the production, about starting production of new products, about planning in the military field or any details which would have provided only the slightest basis to suppose that knowledge existed what was done in that field in DAG?

A. No, they were merely figures, no plans or anything like that.

Q. Now I want to refer to the reports made to the Aufsichtsrat. My first question is, Dr. Schmidt, how long were the quarterly reports prescribed by the law on shareholders, how long were these reports made to every member of the Aufsichtsrat? Until what year?

A. I do not know that from my own recollection.

Q. If I remember correctly, you did name a figure to the prosecutor for the year 1935 during the cross examination?

A. Yes, I was able to find this figure in one of the documents, or I know it because I discussed this in Treisdorf before I was examined here.

Q. May I understand your question to mean that you have not positive knowledge that these reports were made until 1935?

A. According to the documents I gained the conviction that it was continued until '35. From my own recollection, without documents, I do not know this.

Q. Dr. Schmidt, I am not interested in clarifying whether this was at the end of '34 or '35 or in the first quarter of '36. You yourself did not give any definite time in your affidavit, DAG document number 7, but you described this date in a different manner by saying when the business of DAG was influenced to a great extent by the military, you stopped giving

these reports.

A. After the Wehrhoheit had been established and we began to receive orders.

Q. In what year was that?

A. I believe in '35.

Q. Even if you don't remember any definite date you can say for certain that it was about that time, it might have been six months sooner or later, is that right?

A. I know exactly from my own recollection without seeing any documents that when we started working for armaments at the time I said to myself, "Now let us discontinue these reports to the Aufsichtsrat which are such a nuisance." This was a pretext for us to get rid of these annoying reports which always made a lot of work for us.

Q. Dr. Schmidt, what happened after you discontinued reporting to the entire Aufsichtsrat?

A. The Chairman of the Aufsichtsrat continued to receive reports from us, and we asked him not to inform the Aufsichtsrat or them.

Q. Dr. Schmidt, I don't entirely understand the reason you just gave, because if on the one hand you wanted to save time or for some other reasons of convenience you wanted to discontinue the reports to the entire Aufsichtsrat but continued to give those reports to the chairman of the Aufsichtsrat for his information, that is, that you still had to make them out, then you did not save any work, really, did you? Aren't there any other reasons which were decisive for discontinuing those reports?

A Added was the fact that we were not allowed to say anything about military matters. Therefore we did not know what we should tell the Aufsichtsrat in these reports. Every quarter we could only generally describe the various branches of production. Those were phrases that the turnover had increased or had remained the same, and every quarter we did this.

Q After 1935 when you ceased giving the reports to the entire Aufsichtsrat and gave them only to the chairman, — I am now talking about the time from 1935 to 1938 — was the actual content of the report also changed or did it contain the same matters as the reports which had gone to the entire Aufsichtsrat before 1935?

A I do not know.

Q Who was the chairman of the Aufsichtsrat in the DAG from 1935 to 1938?

A Herr von Schinkel.

Q Since when was Herr von Schinkel chairman of the Aufsichtsrat of DAG?

A More than forty years, I believe.

Q That is ever since the time when DAG had nothing to do with Farben or any of its predecessor firms?

A Years before I joined DAG.

Q May I clarify again that during those years from 1935 to 1938 a gentleman who had nothing to do with Farben — that is the chairman of the Aufsichtsrat — received the quarterly reports, but that the representatives or members of Farben in the Aufsichtsrat were not informed.

A Yes.

Q When did Herr von Schinkel leave the DAG Aufsichtsrat as chairman?

A As far as I know in 1938.

Q And who became his successor?

A Geheimrat Schmitz.

Q Dr. Schmidt, may I ask you to look at the letter from Dr. Paul Mueller to Geheimrat Schmitz of 24 September 1938. This is Document NI 15163, Prosecution Exhibit 2159.

A Of 24 September 1938?

Q Yes. This letter bears your signature.

A Yes.

Q Does the wording of the letter show that this letter of 24 September 1938 for the first time mentioned that Geheimrat Schmitz, as chairman of the Aufsichtsrat received the quarterly reports which had heretofore been sent to Mr. von Schinkel?

A Yes.

Q In this letter you say: "The turnover figures also include our military supplies about which we are not allowed to talk generally. Without these figures the report would give an entirely wrong impression." My question concerning this is: "As for these deliveries to the military, were the figures on this contained in the total figures or were they listed separately, and if the latter is the case were they separated according to types of explosives or how was this report made?"

A Since it says here, "the turnover figures include," I presume they are contained in the same figure.

Q Together with the civilian turnover?

A Yes, together with the civilian turnover.

Q In these reports to the chairman of the Aufsichtsrat, after 1938, when Geheimrat Schmitz received these reports, was any report made about the starting of new plants, the capacities, the kind of production in the military sector in detail, and similar matters?

A No.

Q As a result, in your opinion, was this report suitable to give an impression to the recipient about the activity of the DAG concerning the field of military explosives and gunpowder?

A No.

Q Do you know whether these reports to the chairman of the Aufsichtsrat were changed after 1938 — that is from 1938 to 1945?

A I believe so. Some months ago I found out in Troisdorf that this report as we gave it to Herr von Schinkel and which we now gave to Geheimrat Schmitz, was only made out in that form on one occasion.

Q Therefore, is that the report which is mentioned in the letter of 24 September 1938?

A Yes.

Q Dr. Schmidt, I ask you to look at Document 15162. I believe it bears the next Exhibit number but I am not quite sure.

A What is this?

Q This is the Exhibit Number 2160.

A And what is this?

Q This is a letter from DAG to Geheimrat Schmitz which also bears

your signature. It is dated 2 October 1939. Do you have that letter in front of you?

A No.

Q May I give it to you then. Please tell me, Dr. Schmidt, whether the drafting of this letter is a confirmation of the testimony you made just now. Does it confirm your testimony, namely that the manner of reporting customary until then in the form of quarterly reports, which, to a certain extent, contained factual statements, at the latest, at the time when this letter was sent off, was changed to sending pure lists of figures.

A Yes. That can be seen from the letter.

Q And what did these lists of figures deal with? What two groups of figures?

A These of 2 October 1939?

Q Yes. I assume that this report as discussed in this letter is typical for the reports made after this change.

A Yes. Turnover figures and number of employees are given.

Q Let me summarize. In your opinion as member of the Vorstand of DAG, were these quarterly reports, in particular after 1938, suited to give the chairman of the Aufsichtsrat even a superficial impression of the conditions of production and the general work done by DAG in the field of explosives?

A No. Merely figures.

Q Before I talk about the reports made by subsidiary firms of

DAG, I would like to ask another question. It refers to Prosecution Exhibit NI 14098. Do you have that in front of you?

A Yes; 11 April 1934, that is correct.

Q There the fact is mentioned that Dr. Gajewski asks to have certain documents sent to him. May I ask you to comment about the second paragraph. What figures does Dr. Gajewski want there?

A Expenses and money spent for purchasing for the last quarter of 1933.

Q The sentence can be understood differently. Did Dr. Gajewski require the purchasing figures, the turnover figures, and thirdly the figures of the expenses, or does he want the figures of the money spent for purchases according to the turnover?

A To enable Sparte III to make comparison with other purchasing agencies, this concerns merely the turnover figures and the figures of expenses incurred in the purchasing.

Q Do you know why these figures were asked for?

A To enable them to make a comparison, as it says here.

Q Thank you. I would like to clarify for the record that the letter you just mentioned is the prosecution Exhibit 2338. Dr. Schmidt, I wish to discuss a different subject now. I would like to discuss with you in what manner the report of DAG to Farben, treated the activity of the Verwertchemie. First of all, in these letters to the central financial administration, what can you tell me about that?

A I do not know from my own recollection.

Q But I believe, Dr. Schmidt, that the prosecutor received certain answers from you when questioning you about this. Therefore, let me specialize my question a little. Did the reports to the central financial administration contain the turnover of Verwertchemie, and if so, were they combined with the turnover figures themselves or were they listed separately? And in case the latter is true, was the independent turnover of Verwertchemie sub-divided according to various branches of production or according to any other decision?

A They were not subdivided as far as your last question is concerned.

Q Were they contained in one figure in the reports?

A I believe so. Just a moment. As GmbH no. In our DAG reports?
No.

Q Therefore the reports to the Central Financial Administration, let me say, according to your present recollection, did not contain any figures about the Verwertchemie? Is that correct?

A I must think this over. I know that in the turnover figures which we set down ourselves we included the subsidiary firms with that share to such an extent as which corresponded to our share in the capital.

For a company in which we had 60 per cent of the shares we listed the turnover as 60 per cent of the total. I cannot testify how this was in the GmbH.

Q I don't want to make you say anything if you are not sure about this. Only I must ask you about this because you did testify when the prosecution questioned you about this.

A I see.

Q May I summarize your present attitude by saying that when in the reports to the Central Financial Administration, according to your present recollection, no special listings according to separate product were contained?

A Certainly no specified lists.

Q About the production of Verwertchemie, and, may I assume that you do not know whether they were contained in it at all and as a result you do not know whether they were listed as independent figures or together with the turnover of DAG itself? Is that a correct statement?

A Yes. In no case were there any specified data in them; if at all, they could only have been total figures.

Q Your statement that these reports made to the Central Financial Administration were not at all suitable in informing the recipient of these reports about the activity of DAG in the military armament field, did it give them any sort of impression, also to the Verwertchemie, or did it give them a better impression or a worse impression?

A Yes.

Q The prosecutor just points out to me -- I think he is justified

in doing so — that your reply does not correctly answer my question because I gave you three alternatives. Is it true to the same extent or more so or less so for the Verwertchemie?

A To be able to gain an insight, only to a lesser extent.

Q Thank you. Let me now talk about the reports of the Verwertchemie to the Aufsichtsrat. Would you please comment on that again?

A I am convinced that we did not mention the Verwertchemie in the Aufsichtsrat at all.

Q Dr. Schmidt, I am talking about the quarterly reports, first of all, to all members of the Aufsichtsrat, and later on only to the chairman of the Aufsichtsrat. Please let us talk about that. Let me ask detailed questions now. Did the quarterly reports contain data about the Verwertchemie until 1935?

A I consider that completely out of the question.

Q Before that time, did the Verwertchemie become active at all in the armament field which we are discussing here before 1935?

A I don't think so.

Q The period of time from 1935 to 1938 we need not discuss because, according to your own testimony, at that time no member of Farben, in particular none of the defendants, received the report. Now let me talk about the reports to Geheimrat Schmitz after September 1938. Please look at Document NI-15163 again, Exhibit 2159. Does this report give you any reason to believe whether the DAG report included the turnover figures of Verwertchemie or not?

A I don't think so, only DAG.

Q May I ask you now to look at the next prosecution exhibit, NI-15162. This is your letter of 2 October 1939.

A What date?

Q 2 October 1939, NI-15162.

A I don't have that.

Q This prosecution exhibit contains a number of letters. The first one is of 2 October 1939; then there is 18 January 1940, 16 May 1940, 13 July 1940. Those are letters referring to the documents sent to Geheimrat Schmitz every quarter. You answered my question about the utilization of the turnover of the Verwertchemie to the effect that according to your knowledge these turnover figures were not included. On the other hand, the letter of 2 October 1939 contains something about the number of employees. In the last sentence, there is the following remark. Concerning these figures, "from now on the figures of the GmbH for the evaluation of chemical products will be listed separately by us." Dr. Schmidt, can you tell me what caused you, in October 1939, that is after the outbreak of war, to mention separately the number of employees of GmbH, that means the Verwertchemie, which until then you had named together with the employees of the other firms? What made you list them separately?

A I do not know the reason. I can only imagine that the figure was increased to such an extent in the GMBH that it would have confused the picture of the DAG, and that is why we named the figure separately.

THE COMMISSIONER: Just a minute, Counsel. The Commission will be in recess for a few minutes.

(A short recess was taken.)

Takes 7, 8; Page 2; 1100 to 1130; 6 May 1948; Ramler (Int. Reischer)

THE COMMISSIONER: Counsel will proceed with the examination.

BY DR. GIERLICH:

Q Dr. Schmidt, before the recess, we stopped with the discussion of the reasons which caused the DAG in the fall of 1939, that is to say, after the outbreak of the war, to separate the employees of the Verwertchemie from the other companies of the Combine. Do you believe that this separation was perhaps also due to conditions of a social and political nature, because after all, the employees of the Verwertchemie were not actual employees of the Combine factories, and for that reason Geheimrat Schmitz, in considering social welfare, ...

MR. AMCHAN: This is re-direct on the part of the Defense. The last question was very suggestive and leading. It was only counsel testifying and not the witness.

We object to that on that ground and on the additional ground that it is speculative.

DR. GIERLICH (For Defendant Schmitz): I cannot agree with the Prosecution. The witness answered in direct that he was not able to give any concrete reasons for this separation. I believe that it is permissible in redirect to suggest to the witness a certain interpretation in order to refresh his recollection, and then to ask him whether such considerations were of any importance there or not.

BY DR. GIERLICH:

Q Will you now please answer my question, witness?

A I don't know.

Q Thank you.

A The workers of the G.m.b.H. were not workers of the DAG.

Q Then I can leave this subject of regular reports on the activities of Verwertchemie. The Prosecution then asked you, Dr. Schmidt, whether you reported to Farben on the plans for the Verwertchemie, and you answered Yes to that question. Did this reporting activity consist in reporting once to a Farben office the fact that the Verwertchemie was supposed to be the executive company for the Montan plant? Or was this reporting activity handled in such a way that you reported regularly to Farben about the activity of the Verwertchemie, about putting each new plant

in operation, about production capacity and so forth?

A No; if I said -- but I don't remember it -- that we reported to Farben about the plans of the G.m.b.H. -- no -- I remember that I said what our intentions were with the G.m.b.H. But we did not report to Farben about the actual plans that the G.m.b.H. itself had. We never reported to Farben, for instance, on new plans that the G.m.b.H. wanted to execute.

Q Do I then understand you correctly to say that reporting took place to Farben once concerning the basic fact that the Verwertchemie was to become the executive company for the Montan installations?

A Yes, that was it.

Q And that this report took place once and in a very general form?

A I don't know anything else about it.

Q Dr. Schmidt, would you please in the future not speak of G.m.b.H. but of Verwertchemie, just as I will try to do, because otherwise the record will not be clear enough.

In this connection I would like to show you once more Prosecution Document 15215.

A Yes, I have it.

Q It is an affidavit of Franz Anton Gierlichs, dated 21 April, 1948. This affidavit concerns only one letter on the subject of "Verwertchemie", addressed to Farben, Berlin NW-7. Do you know anything about the contents of this letter?

A No.

Q Could you tell me whether this letter was an occurrence that happened only once, or at least only rarely? Or was it more in the nature of a continuous contact with Berlin NW-7 or with another I.G. Farben office concerning the Verwertchemie?

A This looks more like a letter that was just written once. Perhaps I would be able to say more if I know just how it is entered in the book.

Q I believe from the affidavit of the witness Gierlich it follows that this book does not contain any more than the fact that the DAG addressed a letter to Farben and that the subject of this letter was Verwertchemie.

A Yes.

Q That does not refresh your recollection concerning the contents of this letter, does it?

A No.

Q But you can confirm that there was not any frequent, or regular, correspondence concerning the Verwertchemie between the DAG and Farben?

A No, there was not.

Q The Prosecution suggested to you during cross-examination that this letter reported on the business of the Verwertchemie, that is to say, its general activities in a commercial and business sense. Now, does this affidavit give you any indication in this direction?

A No.

Q I now turn to Prosecution Exhibit 353, which was also shown you in cross-examination by the Prosecution. I would like to clarify the

following: Did I understand your testimony during cross examination correctly to mean that in the course of this conference in Troisdorf nothing else was discussed but the legal problems of drawing up the contract for the so-called Montan installations?

A I am sorry, I don't have the number. What was the number?

Q Three fifty-three. This is Exhibit 353, Document No. NI-5685.

Did you understand my question?

A Yes, I did. This file note was made out, according to the initials, by Dr. Boeckler. I don't know whether or not we received it at all. It shows clearly, however, what this conference dealt with. Dr. Buhl visited us in Troisdorf on 31 January 1939 in order to find out for himself what the relationship was and the manner of conducting business via the G.m.b.H.

Q I am sorry, you mentioned the G.m.b.H. again.

A I meant the Verwertchemie. It can be seen from this date alone, January 1939, that previous to that Farben did not know about the nature of the contract between us and the Verwertchemie.

Q Dr. Schmidt, I believe we do not wish to go into too many details on this subject. I only want to ask you: Did this conference limit itself to purely legal problems concerning the construction of contracts between the Reich and the production companies of the Montan?

A Yes.

Q During this conference, were the representatives of Farben informed with even one word about the activity of Verwertchemie in the

armament field in detail -- production, turnover, installations, and so forth?

A No.

Q The Prosecution has furthermore submitted this document in order to show that you also reported to Farben concerning the activities of Wasag or Deutsche Sprengchemie. Will you please tell me: Was even one word said about the activity of this company during this conference?

A No, the record itself shows this. It reads: "Dr. Schmidt mentioned that Wasag also worked according to the Montan schedule." This, then, is only a casual remark in the course of our conference concerning the fact that not only we and the Verwertchemie, but also Wasag and Sprengchemie, all worked under the same contract scheme.

Q. Then I understand you correctly to say that one can't possibly say that this conference was at the same time a reporting to Farben concerning the activity of Verwertchemie or even less Wasag or Deutsche Sprengchemie?

A. No.

Q. In this connection, I would like to ask you the following question, Dr. Schmidt: Was there any sort of contact between DAG and Wasag or organizational way after these two companies, Verwertchemie and Sprengchemie, had become one hundred percent owned by DAG or Wasag?

A. Whether there were connections of a financial, organizational nature, between DAG and Wasag, that is to say, Verwertchemie and Sprengchemie, no both groups were entirely independent.

Q. Dr. Schmidt, I would then like to turn to Prosecution Exhibit 2341, which I am afraid has no NI number. Do you have that document?

A. Yes, I have it.

Q. Exhibit 2341—I have just been told that the document has an NI number, 15260. Dr. Schmidt, what is the date of this letter?

A. Date? It says "Main Bookkeeping Office, September 4, 1944."

Q. Well, there is no date, after all?

A. I don't see any other date.

Q. But perhaps the contents of the letter show that in any case it must have been written at some time after 1 September 1944?

A. Yes.

Q. You answered the question of the Prosecution, I am not quite sure, by saying that it was either possible, or you said definitely that it was

true, that this letter was a letter from a series of letters with the same contents, almost a sample. I would like to ask you in connection with this, Dr. Schmidt, do you know that according to this sample, reporting to Geheimrat Schmitz had taken place regularly? If so, from when to when?

A. According to this letter, I believe it was like this: We sent them these figures at regular intervals; but here it says, "as desired", and that again looks as though they said requested these figures on one occasion. At any rate, I would not know what the dates were for this reporting. But I could imagine, however, that a conference with Geheimrat Schmitz took place beforehand and that he told us, "Will you please give us these figures", and that is perhaps why we wrote in there -- "as desired."

Q. But that would mean that this was not a reporting at regular intervals, that Geheimrat Schmitz expressed the wish once.

A. Yes, that is possible.

Q. If, now, Dr. Schmidt, I put to you that in the fall of 1944, when the German collapse was already in preparation, the Central Financial Administration of Farben started efforts to gain insight into the whole financial situation, so as to be able to distribute the liquid funds of the combine to offer each single enterprise, the possibility of getting through the bad times that were expected, would that refresh your recollection, and would you then be able to say that this is a sort of reporting that was not usual before this time and that only happened once?

A. Yes, I believe I can say "Yes", because this expression "as desired" would be quite unusual for us if it had been a regular reporting activity. This expression "as desired" presupposes that somebody asked

for this report. If these had been regular reports, we would have phrased the introduction differently. We would have said, "Enclosed you will find the quarterly report or the monthly report," but we would not have said "as desired". I assume that there was a conference beforehand.

Q. Now I would like to ask you, in connection with a question that the Prosecution asked you, "Do you know anything of whether the DAG, that is, the central bookkeeping of DAG, reported about the financial situation of the G.m.b.H., the Verwertchemie?

A. No.

Q. In conclusion, and summarizing, may I ask you once again whether, according to your best knowledge of the situation as a member of the Vorstand of the DAG, you reported to any office of the Farben company and especially to the defendants Schmitz and Gajowski, in such a way that the recipients of these reports could fashion for themselves a picture of the extent and the nature of the activity of Verwertchemie in the field of armament?

A. No.

DR. GIERLICH: Thank you. No further questions.

RECORDS EXAMINATION

BY MR. ANCHAN:

Q. Mr. Witness, which records of DAG were destroyed by air raids, do you know?

A. In our main administration in Troisdorf practically everything was destroyed. The whole administration building was bombed on 8 March and completely destroyed.

Q. Which records of Verwertchemie were destroyed by air raids, do you know?

A. The same ones. They were in this administration building.

Q. Do I correctly understand then that all the records of the Verwertchemie were physically located at the Troisdorf office of Dynamit

A. G.?

A. The administration of Verwertchemie was within our own administration, and the documents were in this administration building, just like the documents of the A. G.

Q. And they too were destroyed?

A. Yes, they were destroyed.

Q. Were any documents destroyed by personnel of Dynamit A.G., itself, prior to the occupation by the Allied authorities?

A. I don't know anything about that.

Q. Now, I understood you to say on your examination that Verwertchemie, Wasag, and Deutsche Sprengchemie were financially independent of Dynamit A.G. and Farben. Did you say that?

A. I said: on the one hand DAG and Verwertchemie, and on the other hand Wasag and Sprengchemie, were not dependent on each other in any way, financially or organizationally.

Q. Sorry, I don't understand you, Mr. Witness. Let's take Verwertchemie. Who owned the stock of that company, do you know?

A. Verwertchemie was a G.m.b.H., and the capital was owned by the DAG.

Q. How much of its capital was owned by DAG?

A. One hundred percent.

Q. Now Wasag -- who owned the capital of Wasag, do you know?

A. Wasag was a stock company, an Aktiengesellschaft. Afterwards I found out that I.G. participated DAG owned $\frac{5}{100}$ per cent of Wasag stock from old times. I don't know about the other shareholders of Wasag.

Q. I am afraid I didn't understand your answer. Could you tell me again? Could you tell me, Mr. Witness, who owned the majority stock of Wasag?

A. I don't know that.

Q. Do you know what Dynamit A.G.'s interest in Wasag was?

A. Five percent, approximately.

Q. Do you know what Farben's interest in Wasag was?

DR. GIERLICH: Just a minute, Dr. Schmidt. I would like to object to this type of questions. While I was questioning the witness Schmidt, I did not touch upon the financial relations between Farben on the one hand, and the group of Wasag, Sprengchemie, and DAG, Verwertchemie. The same applies to the affidavits which were the subject of cross examination today. The only thing that I cleared up by examining the witness Schmidt is the fact that the Verwertchemie and Sprengchemie originally belonged to Wasag and DAG together, because they were supposed to work for the same sales interests together, but later on were owned by one of the two companies 100 per cent; that is Verwertchemie went over to the ownership of DAG, and Sprengchemie to that of Wasag. Then, by asking questions of the witness Schmidt, I cleared up that after these companies had become 100 per cent owned by one parent firm, no financial or organizational connection remained between the group DAG and Verwertchemie on the one hand, and the group Wasag and Sprengchemie on the other hand. That I

believe clearly ^{is} ~~in~~ the framework for cross examination.

MR. AMCHAM:

It's obvious that I either misunderstood the testimony of the witness or defense counsel in making his objection now is undertaking to testify. The witness definitely stated, and I have my notes to refresh my recollection, that these three companies were financially independent of either DAG or Farben. Now if defense counsel says he did not testify as to that and he did not inquire about it, I would be perfectly willing to abandon this field of inquiry if he will stipulate the financial ownership by DAG or Farben as to these subsidiaries. May I inquire of defense counsel if he is willing to make any stipulation on the record as to the financial ownership by either DAG or Farben of the three subsidiary companies of DAG or Farben that I am inquiring about.

DR. GIERLICH: I do not believe that it is my task as defense counsel at this stage of the proceedings to give information to the Prosecution for the procurement of which they had more than a year's time. My objection was limited entirely to clarifying what the framework of my own line of questioning was and to show that the questioning of the Prosecution exceeds my own framework of questioning. Apart from that, the stipulation of the type that Prosecution suggests is completely impossible, because Wasag as well as DAG was an Aktiengesellschaft, both of them partly owned by I.G. Farben but were also in the free market apart from that.

BY MR. AMCHAM:

Q. The record will have to show that the witness testified about. Now, as to Wasag, Mr. Witness, do you know the extent of Farben's ownership

in the stock of Wasag?

A. I only heard rumors about that. I never knew an exact figure for it.

Q. As to Deutsche Sprenghomie, who owned the capital stock of that? Do you know?

A. It belonged to the Wasag.

Q. One hundred per cent owned by Wasag?

A. Yes.

Q. Now you testified at some length about your recollection as to what various reports Dynamit A.G. made to Farbon, and you undertook to testify from your recollection as to the contents of these reports. Is that a fair statement of your testimony?

A. Yes.

Q. When did you last see these reports about which you testified?

A. I am afraid I can't say that.

Q. But you are definite that you undertook to testify about the contents of these reports based on your recollection?

A. Yes.

Q. Could you tell me whether or not you last saw any of the reports about which you testified prior to 1940?

A. You mean reports that were made before 1940? When I was interrogated about this affidavit for the first time, I asked the secretary's office "What else do you have in the line of these documents?" And I was told, "There is nothing left."

Q. Well, I think we will stop guessing and show you some reports,

Mr. Witness. I show you a document which we identify as NI-15062, which we offer as Prosecution Exhibit 2344 for identification. Now, Mr. Witness, tell me from the title page just what that document is that you have before you.

A. "Report concerning the auditing of the balance sheet and the profit and loss calculation as of 31 December 1938 concerning DAG made out by Chemical Auditing and Trusteeship Company."

DR. GLERLICH: I object to this line of questioning. The auditing reports of the balance sheet of DAG and of the combine factories were not mentioned by Mr. Amchan in cross examination at all. That is why, although I would have very much liked to clear up some matters in connection with that, I refrained from asking any questions about that in my re-direct examination. The examination of the witness, Schmidt, neither in cross examination nor in redirect, dealt with the auditing reports of DAG and the combine enterprises, and in the framework of these proceedings there is no way at all of extending the discussion to these reports at this stage. Apart from that, I am forced to ask the Prosecution, even though they submit these documents for identification, to make them available to the defense at the same time, because otherwise I am not able in my subsequent direct examination to ask the witness the proper questions.

MR. AMCHAN: We will take his objections one at a time. First, the witness testified for fully two hours, on redirect examination by defense counsel, as to the contents and substance of various reports which Dynamit A.G. furnished to Farben. He undertook to testify as to the contents of these reports from his recollection. He undertook to state that in those reports there was no mention of the activities of Dynamit A.G. in the munitions or explosives field; that there was no mention of the activities of Verwertchemie in the explosives or munitions field; and he developed at length in his testimony what was contained in those reports.

The documents we are showing the witness now are those reports about which he undertook to testify from his recollection, and the documents will show that in those reports he did inform Farben, and in substantial detail, about the activities of Dynamit A.G. in the explosives and munitions field, about the activities of Verwertchemie in the explosives and munitions field; that in the report they particularized the various military and explosives products that the companies were producing for the military, and they also identified the plants of the Dynamit A.G. and Verwertchemie that were engaged in the production of explosives for military use.

Now then, when defense counsel in his examination undertakes to establish facts supposedly contained in reports from Dynamit A.G. to Farben, it is absolutely fundamental in our view that we are entitled to show the witness who has undertaken to testify as to the contents of these reports -- we are entitled to show him a representative report and interrogate him then with respect to the contents of the document in relation to his testimony.

Now, on the second point suggested by the objection of defense counsel, the document is a bulky document. It's the original document. Like any auditor's report, it's fairly substantial. Physical limitations do not permit photostating a document of such size. The particular portions of the document which we are interested in we shall call to the attention of the witness. Defense counsel can very easily follow the testimony. As soon as the witness is through with respect to his testimony as to that document, it will be handed over to defense counsel for such further examination as they deem necessary.

I think that is sufficient to hold the objection for the record in connection with the line of questioning. I don't believe that it is possible to get testimony that has probative value from this witness if - unintentionally on the part of the prosecution to. I am sure, that the various ways of reporting are confused continuously during the questioning and therefore no real basis can be created for the questions.

Dr. Schmidt was asked various questions, by Defense as well as by Prosecution, concerning reporting to Farben, the Aufsichtsrat, and to the defendant Schmitz in person, in connection with the regular quarterly reports.

The balance sheet auditing reports of the combine enterprises were not mentioned by Prosecution in cross-examination, and that is why I refrained from asking the witness any questions concerning these reports in my re-direct examination. For the record I wish to make it very clear that, in any case while I was questioning the witness Schmidt, he did

not mention these balance sheet reports, since I did not ask him about them.

Therefore I maintain my opinion that at this stage of the examination it is not permissible to extend the cross examination to these reports. If the Prosecution, however, nevertheless believes it necessary, then of course we on our part also believe it necessary that we take up this question ourselves.

THE PRESIDENT: The record ought to be full enough on all points.

MR. AMCHAN: Certainly, when defense counsel opens up this field of inquiry and asks the witness about a series of reports, and the record is in such shape that he talked about one report after another without identification, so as to make it as confusing as possible, it's absolutely necessary for the Prosecution to inquire just what reports he was talking about and to show him certain Farben reports -- rather, reports of DAG to Farben -- and ask him whether he took those into consideration when he gave his general testimony as to the contents of all these reports. I think that is enough on this subject.

DR. VON ROSPATT (For Professor Krauch): I would like to state for the record that the Prosecution waived the right to cross-examine the witness Rauh.

DR. GIERLICH: Since the Prosecution has deemed it necessary to pass the responsibility for the confusion in the record to Defense, I would like to make it clear for the sake of the record once and for all that during cross examination by the Prosecution I asked the prosecutor personally to clarify to which sort of reporting his questions referred.

6 May - M-LU-1214-Gaylord (Int. Reischer)
Court VI - Case VI Commission

I believe that the examination this morning clearly showed the distribution into three groups, besides, I believe the record will speak for itself.

MR. AMCHAN: When I said there was confusion, there was no reproach intended for defense counsel. It may just be that I am confused; that is all.

THE PRESIDENT: It's practically recess time in about a minute or so. We will be in recess until one-thirty.

(A recess was taken).

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" " "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pres.)	13566-13619
→ 6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savoleberg	14387-14424
11 May 1948	Karl Munscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494

During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11468
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

1948
6 May - A-LUL3 & 14-1-Ninabuck (Int. Juelich)
Court VI - Case VI Commission I

AFTERNOON SESSION

(The Commission reconvened at 1345 hours, 6 May 1948).

THE MARSHAL: The Commission is again in session.

THE COMMISSIONER: The prosecution will proceed with the examination.

RECROSS EXAMINATION

BY MR. AMCHAN:

Q. MR. Witness, do you have before you a document, NI-15062, exhibit 2344 for identification?

A. Yes.

Q. Now, will you tell me what that document is?

A. This is the report about the checking up on the balance and the accounts of profit and loss of 31 December '38 by DAG. It was given by the Chemie Revisions and Treuhand G.m.b.H.

Q. Well, would this simplify it? The document you have before you, NI-15062, is the auditors' report about Dynamit A.G. for the period ending December 31, 1938; is that right.

A. Yes.

Q. Now, will you turn to the first page please, and tell me to whom was this auditors' report sent?

A. What is added before the report, does not belong to the auditing report. The auditors' report starts with the index. Page 1 starts with, "According to the voting in the main committee of DAG."

Q. Now, does the very first page after the cover indicate to whom the report was sent?

A. I don't know, because this first page was added later on, bound



into it.

Q. Tell me what that first page says. Did you say it was bound into the volume I gave you, page 1? Page 1, Mr. Witness.

A. This page number 1 is a letter from the I.G. Central Bookkeeping Department, but not the report of the revision company, Revisions Gesellschaft. "The Central Bookkeeping Department herewith forwards the report as enclosure to Geheimrat Bosch, to Dr. Gajewski, to the Tea office, and to the Central Finance office.

Q. And what's the date of that letter enclosing the auditors' report?

A. 24 August 1939.

Q. And does that letter state that a copy of the auditors' report is being forwarded to the persons whom you just mentioned?

A. I did not understand your question.

Q. Does that letter of 24 August 1939, which you have before you as part A of the auditors' report, does that letter refer to the auditors' report of Dynamit A.G.?

A. Yes.

Q. Does the letter say in substance that the auditors' report on Dynamit A.G. is being transmitted to the gentlemen and the departments that you just mentioned?

A. Yes.

DR. GIERLICH: I would like to object to that manner of questioning. The witness confirmed that this letter does not originate from DAG and that it was bound into the auditors' report afterwards. In my opinion

according to the usual way in court it is not up to the witness to read anything from a document if he is not accustomed to that document. Therefore, the document has to speak for itself. That is why I consider the prosecutor's questions not proper and object to them.

Q. (By Mr. Amchan). Does that document refresh your recollection that the auditors' report on Dynamit A.G. was sent to Bosch, Schmitz, Gajewski, Central Bookkeeping of Farben, and the TEA bureau.

A. No, because I do not know the letter.

Q. Does it refresh your recollection for that purpose.

A. No.

Q. That's enough. Now will you turn to page 12? Just one other question, Mr. Witness. Does that letter of 24 August 1939 refresh your recollection that the auditors' report on Dynamit A.G. was sent to the Central Bookkeeping Department of Farben?

A. No, we did not send it to the Central Bookkeeping Department?

Q. That's what I asked, the Central Bookkeeping Department of Farben.

A. Well, we did not send it to the Central Bookkeeping Department.

Q. Does that refresh your recollection that the auditor's report about Dynamit A.G. was sent to the Central Bookkeeping Department of Farben?

A. We, the DAG, did not send it. Whether the Revision sent it to the Central Bookkeeping Department, I do not know.

Q. Mr. Witness, as a member of the Vorstand of Dynamit A.G. could an auditor who audited the books and records of Dynamit A.G. send its

auditors' report about Dynamit A.G. to third parties without the consent of Dynamit A.G.? Do you understand my question?

A. I don't know.

Q. Now, Mr. Witness, as a member of the Vorstand of Dynamit A.G. do you know of any case where an auditor who was appointed to audit the books of Dynamit A.G. made available his audit to third parties without the consent of Dynamit A.G.? Do you know of any such case?

A. No.

Q. Now, is it not a fact, Mr. Witness, that when the auditor of Dynamit A.G. made available to Farben his auditors' report on the business and affairs of Dynamit A.G. that he did that with the approval and consent and under the direction of Dynamit A.G.? Isn't that the fact?

A. With the agreement, yes.

Q. I don't understand your answer. What do you mean, with the agreement, that the Dynamit A.G. agreed and consented to having the auditors' report sent to I.G. Farben?

A. Yes.

Q. We could have saved twenty minutes on that. Now, will you please turn to page 12. Do you note in the auditors' report on DAG which went to Farben a listing of the factories of Dynamit A.G.?

A. Yes.

Q. What factories are listed?

A. Adolzfurt, Boehlitz, Dueneberg, Em;elde, Hann, Kruennl, Nurnberg-Stadeln, Saarwallenigen, Schleibuxch, Troisdorf, Wurgudorf, and Foerde.

DR. GIERLICH: I must object again to this manner of questioning. President Shake ruled and explained in Court repeatedly, that it is not the task of the witness to recite from documents which the Prosecution submits to them. All people participating in the trial can read for themselves, and if the Prosecution attaches value to the contents of the documents becoming part of the evidence, then they should study them himself. That way, I think we could save more than twenty minutes.

MR. AMCHAN: These questions are preliminary to put further questions to the witness. We asked him to read certain parts for identification, and that's preliminary to asking further questions.

DR. GIERLICH: In this connection, in order to avoid later confusion in the record, may I point out the following. The Prosecution used excerpts from the document NI 15062 which concerned the first page and the twelfth page concerned here. These have already been introduced by the prosecution as Exhibit 2311 at an earlier date. As identification, they have just offered the same document under another exhibit number. I think in order to avoid confusion in the record, we ought to come to some sort of an agreement on this.

MR. AMCHAN: I appreciate Counsel's help, and I think he is entirely correct, and for the record, we will withdraw the numerical number of exhibit 2344 since Counsel calls our attention to the fact that excerpts

of the same document, NI-15062, is already in evidence as exhibit 2311. It is just the numerical sequence that we are correcting here now, in the record.

BY MR. ALCHAN:

Q. Now, Mr. Witness, the plants that you just mentioned, does the document NI-15062 indicate what production took place in these plants?

A. Yes. In general, it was so.

Q. And what production is indicated as having taken place in these plants?

A. Well, in Adolzfurt they made black powder; in Boehlitz, glycerine in Dueneberg they made military things; in Espelde, they also made something for the military; in Hann they made black powder and something for the military; in Kruennel they made something for the military, explosives for export, and sulphuric acid; in Nurnberg-Stadeln they made munition for hunting and sport and also things for the military; in Saarwellenigen they made explosives for Germany in Schlebusch they made explosives for Germany, trinitrotoluol, sulphuric acid and glycerine; in Troisdorf celluloid, plastics, vulcan, fibre, fuses, in Eerde, also things for the military.

Q. Now we will turn to page 12-A of that document, and tell me whether or not it refreshes your recollection that in the auditors report of Dynamit A.G., reference was made to the plants of Verwertchenie. Does the document refresh your recollection for that purpose?

A. I see that it is contained here.

Q. And what does it show?

A. What this means?

Q. No, what does it say?

A. In this report, on page 12-A, the factories are named which are run by G.M.B.H..

Q. Of Verwertchenie?

A. They are named here.

Q. Which ones are they?

A. Doenitz, Gusen, Hessisch, Hightenan, Clausthal Callersfeld and Uckermunde.

Q. Do the listed plants of Verwertchenie, which you just read, indicate the nature of the production at those plants?

A. No.

Q. What was the production of those plants, do you know?

A. No, not in detail.

Q. Will you look at the top of page 12-A. How is the subject matter introduced? What is the first sentence about the Verwertchenie?

A. Apart from that, the company, the limited company also utilizes chemical products. The original capital is entirely in the hands of DAG. They act as trustees of the Montan industry of G.M.B.H. and operate the following plants:

Q. Now does that document refresh your recollection that the three plants of the Verwertchenie which are referred to in that report here, engaged in producing explosives for Montan, that is, the Reich Government Agency? Does the document refresh your recollection for that purpose?

A. For the explosive for the military administration, yes. Not

for the Montan industry.

Q. Now, will you turn to page 11, please. Do you notice, in that page, a report which contains a breakdown of the production of DAG into Munitions A and Munitions B?

A. Yes.

Q. Will you please tell us what field of activity is covered in the classification, Munitions A?

A. Civilian.

Q. And what field of activity is covered in the classification, Munitions B?

A. Military products.

Q. Does the document, particularly that page, now refresh your recollection that Dynamit A.G., in its auditors report, informed Farben of its production activity in the field of Military explosives? Is your recollection refreshed for that purpose?

A. We did not make that report, but the Chemie did. We did not inform Farben by means of this report, but the Chemie Revision made that report.

Q. When you say the Chemie Revision, you mean the auditors made that report?

A. Yes, the auditors company.

Q. Now, I am afraid you don't understand my question. Mr. Witness, the auditors report of Dynamit A.G. which was sent to Farben, and which you stated a moment ago was with the consent of the DAG, now that auditors report shows, does it not, the business done by Dynamit A.G.

in the field of military explosives?

A. Yes.

Q. Now, does that document refresh your recollection that Dynamit A.G. directly, or through its authorized agent, its auditors, informed Farben of its activities in the field of military explosives? Is your recollection refreshed for that purpose by this document?

A. I say that the Chemie handed the report in to them, and that they wrote here, "Taken note of ", but Farben, we did not make the report. One cannot say that DAG by means of this report, informed Farben by means of this report.

Q. Will you please turn to page 33 of the document, Mr. Witness. Can you tell me, whether or not your recollection is refreshed by looking at that document, that Dynamit AG reported to Farben on the business of Verwertchemie? Is your recollection refreshed to that extent?

A. Chemie writes in this report about the things received and the profits by the Verwerchemie from 1 January 1937 until 31 March 1938. The profits they received are described and reported in this report. And with our approval, I hand this report to Farben. Farben thus learns about this profit. But we did not report it.

Q. Farben learned of the profit made by whom?

A. From this report.

Q. I mean, the profit of what company?

A. Of the Verwertchemie.

Q. Now, will you please turn to page 50, Mr. Witness. Will you please turn back to page 11. Now, that's the breakdown of the Dynamit A.G.

production in the Munitions A and Munitions B, and you told us what Munitions A means and what Munitions B means.

A. Yes.

Q. And there is also a breakdown in the category for Explosives A and Explosives B?

A. The same thing. A is civilian, and B military.

Q. Now, let me see if I understand. Are there four categories referred to on that page, namely: Munitions A, Munitions B; Explosives A, Explosives B. Are there those four categories referred to?

A. Yes.

Q. Is there any difference between the category of Munitions A and Explosives A?

A. Yes.

Q. What is the difference?

A. Explosives are explosives ("Sprengmittel sind sprengstoffe") and munitions are not explosives. Munitions A can also be used for hunting. Munitions B will be munitions for the infantry, while dynamit and ammonsalpeter and TNT are all such explosives.

Q. Now, to make sure that I understand you, Mr. Witness, would this be a fair statement of your testimony? Under the category of Munitions, you refer to gunpowder and under the category of explosives, you refer to high explosives as distinguished from gunpowder. Is that a fair statement of your testimony?

A. No.

Q. Then I am afraid I don't understand it. Suppose you take the

four categories, Munitions A, Munitions B, Explosives A, and Explosives B, and tell me, for each category, what products are included therein?

A. Munitions A is munitions for hunting. Munitions B is infantry munitions. Gunpowder, I believe does not belong to Munitions B, but to Explosives B, but I do not know where powder is listed provided it is not black powder. It was also considered Munitions B. Explosives A are explosives and fuses used for civilian purposes, and Explosives B are explosives for the military, mainly TNT, hexa, I know nothing more.

Q. Now, will you please turn to page 50, Mr. Witness. Does that document refresh your recollection that in the business affairs between Verwertchemie and DAG, Verwertchemie owed DAG a substantial amount of money?

A. At that time they did, yes.

Q. And what time is that?

A. The end of 1938. 31 December 1938.

Q. Will you please turn to page 37 now. Does that document refresh your recollection that Dynamit AG reported to Farben as to the quantities of merchandise, or stock, that it had on hand, containing a breakdown according to the following classifications: Munitions A and B, and Explosives A and B. Does the document refresh your recollection for that purpose?

A. I can only repeat that this is not a report by DAG to Farben. We did not make this report.

Q. I see. Mr. Witness, the auditors' report about Dynamit AG business, which you have before you, does that refresh your recollection

that there was reported to Farben, with the consent of Dynamit AG, the Status of Dynamit AG's merchandise and stocks on hand, particularly its stocks with the categories of Munitions A and Munitions B, and Explosives A and Explosives B. Does that document refresh your recollection for that purpose?

A. Yes, here on page 37. There is no difference made or rather, A and B are not separated.

Q. What is the . . .

A. This is the list of the stocks. Explosives, 11,000,000, but A and B are not separated here.

Q. And what about munitions?

A. The same thing. It just says munitions here, 5,614,000.

Q. Does the document also refresh your recollections that you made a comparative statement as to the increase in business in these fields over previous years?

A. It says here the increase of stocks in total compared to the previous year is 5,000,000. This is due to the general expansion of the business, of the increase to be expected. The raw materials are evaluated as 3.4 millions.

Q. Will you please turn to page 77. Does that document refresh your recollection that with the consent of Dynamit AG there was reported to Farben the figures of Dynamit AG's profits, with the particular breakdown of its profits and its activities connected with explosives A, Explosives B, Munitions A and Munitions B? Does that document refresh your recollection for that purpose?

A. Yes.

Q. Does the document also, at that particular page, refresh your recollection that Dynamit AG, with Dynamit AG's consent, there was a report on the activities of Verwertchemie in the explosives field?

A. I can see, in this report, the fields which are named here.

Q. Of Verwertchemie?

A. This is the accounting.

Q. The accounting of the business affairs of Verwertchemie?

A. It says here, "Profits for Explosives B in 1938." There are contained, the settlements with Verwertchemie and another firms. A profit of 144,000 marks would have been our profit from this.

Q. Mr. Witness, I show you this document which is NI-15063, which we offer as Prosecution. Excerpts of which, I understand, are already in evidence. NI-15063 is already in evidence as exhibit 2312. Now, Mr. Witness, could you tell me what the nature of that document is?

A. This is again a report of the Chemie Revisions und Treuhand G.m.b.H. about the auditing of the balances and the profits and losses from 31 December 1936, of the concern firms of DAG. Part I is a copy of the plants which are working.

Q. Well, now, will you please turn to page 1 of that document and tell me whether or not it refreshes your recollection that the reports about the activities of Verwertchenie were made on the instructions of the bookkeeping department of I.G. Farben? Does the document refresh your recollection for that purpose?

A. I see this list for the first time. This compilation — I have not known this compilation before and I can see from it that in this collection the Verwertchenie is also named.

Q. Does the document further refresh your recollection that the auditors report on Verwertchenie, which you have before you, was made on the instructions of I.G. Farben's bookkeeping department?

A. That is in the introduction.

Q. Is your recollection refreshed by that introduction?

A. No.

Q. Will you please turn to page 2. Does that refresh your recollection that Farben was informed that since 1937 Verwertchenie had been operating the Doenitz plant?

A. Would you repeat the question, please?

Q. On page 2 do you see the remarks about Verwertchenie and the plant at Doenitz?

A. In Doenitz, yes.

Q. Now, at that time, 1936, what was being produced by the Doenitz plant, do you recall?

A. Doenitz had been dynamit factory previously. It had been lying idle for many years, and as this report shows, in 1937 they started

operations again, and it became a Reich-owned factory.

Q. Who started operations of the Doanitz plant?

A. The Verwertchenie.

Q. Now, who were the executives or rather who directed the activities of Verwertchenie?

A. In 1936 the managers were Dr. Brodach, Riedl, and Weid.

Q. Are they connected with Dynamit A.G.?

A. Yes. They were prokurists of the Dynamit A.G.

Q. Is this a fair statement, Mr. Witness, the activities of Verwertchenie were directed by Dynamit A.G. in Troisdorf -- is that a fair statement of the situation?

A. Because of the personal union, yes.

Q. Will you turn to page 3 of the document? Is there anything to refresh your recollection further as to whether or not the administration of the Verwertchenie was undertaken by Dynamit A.G. in Troisdorf? I will reframe that question. There is something wrong in the translation. Do you note any reference on page 3 to the fact that Dynamit A.G. from Troisdorf took charge of the administration of Verwertchenie?

A. Yes.

Q. Now, could you tell me what other subsidiary companies of Dynamit A.G. are mentioned in the document you have before you the auditor's report NI-15063?

A. Which other subsidiary firms?

Q. Yes. Which ones are they--could you just mention them?

A. I must just have a look. Verwaltungsgesellschaft G.m.b.H.,
13706
.....

Chemische Industrie, Reuschenberg G.m.b.H., Eckert and Ziegler G.m.b.H.,
and Rheinischesppitz Guswerke G.m.b.H., Esplanade Administrative Company
G.m.b.H., the factory for electric fuses G.m.b.H.

Q. Now, I think that is sufficient.

DR. GIERLICH: I would like to refer again to my previous objection.
It is that it is not up to the witness to read documents which have been
submitted by the prosecution. In the record the prosecutor answered to
my first objection that he was only going to ask a few preliminary
questions. I can only say that the first thing the witness said about
the last document was that he did not know it; secondly, that this was
not a report by DAG, but an auditor's report of another auditing company
about the DAG. Ever since the examination has been about this for a
quarter of an hour and the witness does nothing but read passages from
this auditing report into the record. This manner of examination does
not conform with the usual way the examinations are conducted here, in
Court and that is why I think it is inadmissible. I object to the entire
manner of questioning about the last document.

MR. ANCHAN: Both of these documents are in evidence. They were
being shown to the witness and parts of it were pointed out to him and
I asked whether they refreshed his recollection.

There is an additional question or two I am going to ask about the
last document, Exhibit 2312, NI-15063.

BY MR. ANCHAN:

Q. Mr. Witness, is it not a fact that Dyhanit A.G. appointed the
auditors who made these reports?

A. The auditors were chosen in the general meeting of stockholders I believe that was regulated by law in our firm, that the general meeting of stockholders appointed the auditors.

Q. So that it was the general meeting of the stockholders of the Dynamit A.G. that appointed the auditors who made these audit reports, is that right?

A. Yes.

Q. Now, defense counsel asked you about Exhibit 2341, NI-15260. That was the letter of 4 September 1944 from Dynamit A.G. to the defendant, Schmitz, and you testified, as I understood it, that a report of that kind was unusual. Did I understand you correctly?

A. I said if this was a report which was handed in regularly, then we would not have written "according to request, we give the figures which you requested." I understand because of this that Geheimrat Schmitz requested us to give him these figures or else we would not have written "according to your request."

Q. Now, Mr. Witness, is it not a fact that during the same period of time Dynamit A.G. sent regular monthly reports to the central finance committee of Farben indicating the turnover figures of the explosive firms Dynamit A.G. and Verwertchenie? Is that not a fact?

A. Whether during that same period--whether during that time the DAG -- we have had the reports once before. I don't know what kind of reports you are referring to now.

Q. The reports, Mr. Witness, that I am inquiring about are the finance plans of Dynamit A.G. and Verwertchenie, and my question is, is

it not a fact that during this period of time Dynamit A.G. sent monthly reports around 1944 to the central finance department of Berlin N.W.N. of I.G. Farben?

A. Whether we made monthly reports?

Q. Well, they made monthly reports?

A. I think we made them monthly.

Q. Do you recall whether in these monthly reports you just mentioned you included the finance plans of Verwertchemie, too?

A. No.

Q. I show you this document --

DR. GIERLICH: May I ask the prosecution to identify the document for the record?

MR. ANCHAN: Which we identify as NI--23 will have to supply the NI number. It is dated 18 December 1944, and we will identify it as Exhibit 2344 for identification only.

BY MR. AMCHAN:

Q. And I ask you, Mr. Witness, does that document refresh your recollection?

A. Yes.

Q. What does it refresh your recollection about?

A. I see now how such a report looked like.

Q. Does it refresh your recollection, Mr. Witness, that in the finance plans which Dynamit A.G. reported monthly to Farben it included not only the financial plans of Dynamit A.G. but also the plans of Verwertchemie? Does it refresh your recollection?

A. No. This concerns only DAG here.

Q. Will you please look at the parts which are being indicated to you of that document and tell me whether or not it refers of Verwertchemie?

A. No. It says we counted on the distribution of profit that is, the money which we received -- this is only the finance plan of the DAG but not of the Verwertchemie.

Q. What does the sentence after that that you just read say?

A. Money investments of third parties. It says here, "Money Investment of third parties, in the amount of 9,000,000 is anticipated. It refers to the latter to the finance plan of the heaviest months. In the previous months in this finance plan we must have asked that we should receive 9,000,000, but in fact when the DAG did receive 15,000,000 and in order to clarify why not only 9,000,000, as intended by us, but 15,000,000 had been received, we gave the reason that the G.m.b.H. sent

us more money.

Q. You mean the Verwertchemie sent Dyannit A.G. more money?

A. Yes, more than we had expected.

MR. AMCHAN: No further questions.

DR. GIERLICH: Gierlich for Geheimrat Schmitz.

REDIRECT EXAMINATION

BY DR. GIERLICH:

Q. Dr. Schmidt, when the prosecutor cross-examined you, you said that you learned afterwards that Farben participated in the Wasag, did I understand you correctly?

A. Yes.

Q. Until this day did you have definite knowledge about the kind and the amount of the shares Farben had in Wasag?

A. Only according to rumors.

Q. You have no positive knowledge about this?

A. No, I haven't.

Q. In your opinion, does this apply to the DAG in general or is that your personal opinion, only, that is to say, in the DAG as such, was there any general knowledge based on facts about the share of Farben in the Wasag?

A. If somebody in DAG had known this I would have been the first one to have known this.

Q. Dr. Schmidt, may I ask you to look now at the report NI-15062, Exhibit 2311? Before that I would like to state for the record that exhibit, rather Document 15062, Exhibit 2311 and also from the other

6 May-A-JP-18-3-Spears (Int. Juelich)
Court VI Case VI Commission

document NI-15063, Exhibit 2312, only excerpts were introduced as evidence so far, and that the prosecutor is questioning about these excerpts -- that the prosecutor asked about more subject matter than only about the excerpts. May I clarify first, does this document NI-15062 contain two entirely separate and different parts, the first part being a letter of the central bookkeeping department of Farben and as a further part the auditors report by the Deutsche Revisions and Treuhandgesellschaft?

A. Yes.

Q. May I ask you first to look at the letter by the central bookkeeping department. In this letter is Geheimrat Schmitz listed as addressee of this report?

A. No.

Q. May I ask you then to look at the list, I believe it is on page 11 in the subdivision of "Explosives and Munitions" according to "A" and "B"?

A. Yes.

Q. Does the report as such give any information about the importance of the differentiating in "A" and "B" concerning explosives and also munitions?

A. Not here.

Q Therefore the reader who sees nothing but just this report, can he realize that in the case of explosives b and the munitions b, this concerns production for military purposes?

A If it is not mentioned at another point what a and b is, then he cannot know it.

Q The passage which you read into the record at the request of the prosecution at any rate explains the meaning of a and b at no point?

A That is right.

Q The reader of this report who has no further information is not able to see clearly what the meaning of these two letters is?

A No.

Q Dr. Schmidt --

THE PRESIDENT: Just a minute. We will pause here for a brief recess.

(A recess was taken.)

THE MARSHAL: The commission is again in session.

BY DR. GEIRLICH:

Q Dr. Schmidt, we continue with Document NI-15062. Will you please be kind enough to tell me how long this report is altogether?

A The report contains 92 pages and then enclosures.

Q And how many pages will that be approximately?

A There are six enclosures.

Q How long is the report concerning the Verwertchemie on page 12A?

A Five lines, and also the listing of the five plants.

Q Does this report contain any indication concerning the production of Verwertchemie, that is, the type of products, the extent, etc.

A No.

Q On page 12 of this report the factories of DAG are listed which at that time were in operation and at the same time it is detailed what products are made in the different factories. Does this report in this very passage show anything besides the quite general distinction between Military products on the one hand and civilian explosives on the other, fuses, vulcan fibre etc.? Does it give any sort of indication concerning the distribution of production in the DAG enterprises?

A No.

Q Dr. Schmidt, do you believe that anyone could draw the conclusion from this detailed report that this was to be an information to the recipient concerning the activities of DAG in the field of armaments?

A No.

Q Don't you rather believe, as I do, that with the most severe restraint this report mentions only what would be absolutely necessary to give a very general picture and apart from that to explain the figures contained in it?

A It gives no picture at all.

Q And what would you say concerning the five lines on page

12a of this report which consists of more than a hundred pages including the enclosures? Would you say that that was an information of the recipient concerning the activities of Verwertchemie?

A No.

Q I am now turning to Document NI 15063 which I would like to hand you herewith. This is Exhibit 2312. Would you please turn to that passage which treats of the matters of Verwertchemie? Did you find that, Dr. Schmidt?

A Yes, I did.

Q Would you first tell me from what business year that report is?

A The year 1936.

Q Is it correct that in one sentence the statement is made that in 1937, that is to say outside of the year that the report is about, Verwertchemie took over the management of the plant Doemitz owned by the Reich?

A I only see this one sentence here.

Q In other words is it correct to say that during the year 1936, about which the auditing report is concerned, the Verwertchemie started production of armaments had not yet taken place?

A It seems that way to me.

Q If you are not quite certain, Dr. Schmidt, will you please read that whole passage once again and then comment

upon it.

A Here it reads as follows: From the time of its establishment the corporation changed their fields of activity repeatedly. At the beginning of the year that the report is about, the activities of this corporation were mainly concerned with sales of various products of the plant Rockwell. Until the end of 1936 the corporation did not really have their own sales organization. Since 1937 it is concerned with the production, etc. etc. in Doemitz. This clearly shows that in 1936 the corporation had nothing to do yet with armament matters.

Q And once again for clarification I would like to ask you again if this is 1936, the year with which the report before you is concerned?

A Yes.

Q My next question, Dr. Schmidt, do you know who audited the balance of the Verwertchemie for the year 1937 and after that?

A The Deutsche Revisions und Treuhand A.G. that is the German auditing and trusteeship and not the Verwertchemie.

Q Now, could you please tell me for what reason this change in auditing firms took place? Would you please repeat that answer?

A Upon desire of the Montan factories.

Q The Deutsche Revisions und Treuhand-A.G. Aktien

Gesellschaft, was that the usual auditing firm for all those enterprises who managed Montan factories which belonged to the Reich?

A As far as I know, yes.

Q Is it, therefore, a fair statement concerning your testimony on these points if I say that the balance of the Verwertchemie, up to the year 1936, when the Verwertchemie did not yet concern itself with the production of armament, was audited by the Chemie Revisions und Treuhand and that after the year 1937, in which year Verwertchemie took over to the Deutsche Revisions und Treuhand Gesellschaft which also was in close connection with the Reich authorities?

A Yes.

Q Were the auditing reports of the Deutsche Revisions und Treuhand Gesellschaft of the DAG or the Verwertchemie sent to Farben or to any other officials of Farben after 1937?

A No, not as far as I know.

Q Would you have had to be informed if this had taken place?

A Yes, definitely.

Q In conclusion I would like to ask you the following, Dr. Schmidt: Do you still think, in view of the excerpts discussed here by me and the prosecution concerning the balance reports of the D.A.G., do you maintain the statements that you made this morning that according to your best knowledge

that Faroen or of any of their executive officials were given no information concerning the activities of DAG and the Verwertchemie in the field or armaments which could have been sufficient to give these gentlemen a picture, even an approximate idea, which would correspond to the facts?

A Yes.

Q And would you also maintain this statement in view of the balance reports of the DAG which the Verwatchemie in 1938 which were discussed with you this afternoon.

A Yes.

Q Thank you, no further questions.

THE COMMISSIONER: Any further questions by the Prosecution? If not the witness is excused.

DR. GIERLICH: Mr. Commissioner, may I ask that the defendant Schmidt be excused from further attendance here?

THE COMMISSIONER: He may be excused.

MR. AMCHAN: Mr. Commissioner, I ask that you give us a few minutes before proceeding?

THE COMMISSIONER: We will recess for about five minutes.

THE COMMISSIONER: The Court is again in session. You may proceed.

MR. ANCHAL: If your Honor please, just before the recess we marked for identification as Exhibit 2344 a document to which was not assigned an NI number. I would now like to have the record show Exhibit 2344 for identification is NI 15293.

THE COMMISSIONER: Very well.

DR. TUECK: (Assistant to Dr. Berndt for the defendant Mann): Mr. Commissioner, the next witness, Mr. Werner Schmitz is available to be sworn in as a witness for cross examination.

WERNER SCHMITZ, a witness, took the stand and testified as follows:
BY THE COMMISSIONER:

Q The witness will raise his right hand and take the oath.

I swear by God the Almighty and Omniscient that I will speak the pure truth, and will omit and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: You may be seated.

- DIRECT EXAMINATION -

BY DR. TUECK:

Q Herr Schmitz, will you please give your full name once again for the record?

A Werner Schmitz.

Q When and where were you born?

A On the 7th of May 1903 in Wuppertal Elberfeld.

Q What is your address at the moment?

A Wuppertal, Rarmen, Eschenstrasse 105.

Q Herr Schmitz, you have executed a number of affidavits.

These are Document Mann 326, Exhibit 178 contained in Volume 4, page 3; Document Mann, No. 335, Exhibit 185, Volume 4, page 121, Document Mann 322, Exhibit 198 in Document Volume 4, page 49; Document Mann No. 348, Exhibit No. 200 in Book 4, page 52; Document Mann No. 337, Exhibit No. 201 in Book 4, page 53, Document Mann 373, Exhibit No. 211 contained in Book 4 on page 80; Document Mann 385, Exhibit No. 214, Volume 4, page 92; Document Mann No. 409, Exhibit 238, contained in Document Volume 5, page 42; Document Mann No. 427, Exhibit 251, Book 5, page 14, and finally Document Mann No. 309 Exhibit 279, Book 5, page 125.

Now in connection with your affidavit of 10 March 1948, that is Document Mann No. 385, Exhibit 214, I would like to ask you a short question about it. In this affidavit you state, and I quote:

"As is clearly stated in the letter from Bayer to Rhone-Poulenc, the letter dated 18 December 1940 that Bayer never intended to claim retrospective licenses for the products produced according to contract for the time from 1918 to 1938, Bayer wanted to show, by waiving this claim, that the financial side of the reparation was of lesser interest than the final cleaning up of the situation in the field of imitation and patent protection for special pharmaceutical products.

Now, I would like to show you a letter of the firm of Bayer to Rhono-Poulenc, of 18 December 1940. That is document Mann 368, exhibit 213, in book 4, page 88, and would like to ask, in connection with that, whether this is the letter of 18 December 1940 which you have mentioned in your affidavit?

A Yes. The passage that I mean will be found on page 2 of the letter, paragraph 5. There it is mentioned, in connection with aspirin, and I quote, "Since we do not want to make any claims for the past years . . . This waiver of our rights for years past referred, of course, not only to aspirin, but it also applied to all other products for which license contracts were made for the future. In this connection, I would like to add that I already made the same statements in the course of my interrogation by Mr. Newmann, here in this building, on 14 and 15 January, 1948.

I furthermore would like to say, in connection with my affidavit, that this waiver was contrary to the opinion held at that time by the German government. We knew from the opinion voiced by several people that Germany government officials towards us, or to similar representatives in Berlin, that a restitution was supposed to be claimed for all damaged German interests in the past, as that, for instance, would have been the case in the case of aspirin. But we waived our rights because it was important for Mr. Mann to see that we would have a good and meaningful cooperation which should be maintained throughout the future.

Q Do you have any other comments or changes to make in connection with this affidavit?

A Yes. Concerning my affidavit of 10 March 1948, that is document Mann 409, exhibit 233, Document Volume V, page 42, I would like to give an explanation. In this affidavit I state that the basic provisions of the license contract Number II concerning the mutual exchange of new products had already been known to the gentlemen of Rhone-Poulenc before the actual signing of contract No. 1.

Now, I would like to give you some points concerning this, and in supplementation, I would like to add that also, during the fundamental conference, which was held on 29 November 40, concerning Contract I, this cooperation had already been discussed. I can remember very clearly that at that time especially, Mr. Grillet desired a further cooperation with us. This was later realized by Contract No. 2. Beyond that Mr. Grillet expressed a desire to extend this cooperation also to other fields, for instance, to the field of plastics, artificial resins, synthetic rubber, and plant products produced. This can also be seen from a later letter of the firm Rhone-Poulenc. I believe it is dated 17 February 1941.

In the meeting of 29 November, Mr. Mann agreed to this request. After all, it was commensurate within the meaning of Contract I to clear up the situation for a further collaboration and cooperation, and to bring about a parity for the parties concerned.

Q What do you mean by bringing about a parity?

A A French invention in the field of pharmaceuticals could be patented in Germany. Now, if a German manufacturer wanted to produce such a product, he was obliged to write to the French manufacturer and

to ask for license, for which, of course, he had to pay. In France, things were a little different, because of the confusion of patent laws concerning pharmaceuticals products such a patent protection was not in existence in France for German inventions. Now, if Rhone-Poulenc wanted to cooperate with us, in the interests of both parties, first of all, the fundamental requisites for such a collaboration had to be created, namely that both parties would have equal rights in protecting their products. This equalization also was included the fact that Rhone-Poulenc would pay license fees for the use of trademarks and preparations to which Bayer had the priority rights.

I want to point out here, once again, that this equalization was not agreed upon retroactively for past years, but the licenses were to be paid only after moments of signing of the agreement. Now, if we would have wanted to claim indemnification for past use of our products, then these contracts would have had to mention an enormous sum for the payment of licenses which had accrued, from 1918 until the signing of the agreement. But we expressly waived our rights to payment for the past years because, as I already mentioned in my affidavit, this financial part was not very important to us.

Q Do you have any other additions to make to any other affidavits?

A To affidavit dated 18 February 1948, that is Document Mann h27, exhibit 251, Volume V, page 74, I would like to make the following additions.

The transmission of production methods which was mentioned in this affidavit, and the current knowledge concerning the 62 products mentioned in it this was not all that Bayer did.

For the sake of completeness, I have to add that Bayer and Rhone-Poulenc had a very lively correspondence concerning all questions in which Rhone-Poulenc was interested. The gentlemen of Rhone-Poulenc frequently visited our laboratories in Elberfeld and Hoechst, and were able to gain knowledge of all of those products which were concerned by the contract. They gained very important experiences in this manner, which they used to simplify and make their products less expensive, and to increase their production in a useful way. The value of money of this service that Bayer rendered cannot be overestimated.

Q Mr. Schmitz, perhaps you have another addition to make to your affidavit of 11 March 1948?

A Yes, one. This is document Mann 390 exhibit 279, contained in Volume V, on page 125 concerning the calculation which is mentioned in there the services of both partners to each other, and on the basis of this, I have to add the following.

In connection with the payment of license fees Bayer already had waived its right to the payment of these license fees from the so-called contracts for the time prior to the beginning of the war, that is the time from the outbreak of the war, That is the first of September 1939 until the beginning of Contract I, namely, 1 January 1941.

A conservative estimate based upon licenses given previous to that and after that, this would amount to approximately three million French francs. A possible reduction in turnover caused by the war, of course, is considered in this sum. This sum of three million French francs therefore would have to be added to the profit which was calculated in this table of mine since Rhone Poulenc did not have to pay this sum. Now, of course, there is another advantage that Rhone Poulenc had from that. Bayer withdrew from their business in France after the signing of contract 1 and during the time following. First of all, in the field of aspirin in February of 1941 and later on in the special fields and fine chemical field from the year 1942. That is why the turnover in these products of course fell to the advantage of Rhone Poulenc, especially in those preparations in which Rhone Poulenc had brought parallel products as imitations on the market. I further would like to state that it can be assumed with certainty that Bayer would have executed the plans that they had before the war, namely to institute their own production in France and to leave the sales management under cover of a French firm. By that the turnover of the sales of Bayer in France would have been considerably increased. Since this project was not carried out Rhone Poulenc had, of course, another big advantage.

Q. Otherwise you would have no corrections?

A. No, that's all.

DR. TUEBK: Thank you. I yield the witness for cross-examination.

CROSS EXAMINATION

BY MR. NEWMAN:

Q. Mr. Witness, we shall first turn to your affidavit of March 13, 1948. This is Mann exhibit 165, his document 335, Mann book 4, page 21. I call your attention --

A. I didn't understand the number.

Q. This is exhibit 165, document number 335. Is this affidavit now before you?

A. Yes.

Q. I call your attention to page 1, number 2, second paragraph, where you say that in 1941 Mr. Bo spontaneously asked you for patent suggestions for France in order to enable him to take steps of his own in Paris. As to this spontaneous request by Monsieur Bo I ask you, hadn't you first told him that a copy of Bayer's suggestions concerning a French patent law was already in the hands of the German Armistice Delegation?

A. No, I can't remember that. I can't remember having talked about that previous to the conference with Herr Bo.

Q. Now you will be shown Mann's exhibit 188. This is Mann's document number 522, Mann book number 4, page 25. This is a letter to Bayer's director Bruogemann of May 12, 1941 signed Schmitz. Please tell us first, are you the author of this letter and does Schmitz stand for Werner Schmitz?

A. Yes, that is my letter to our director, Dr. Bruogemann in Leverkusen, thank you.

Q. Now I call your attention to the second part of this letter where you say that Monsieur Bo, and I quote, "requested the undersigned to send on the report..... to the German delegation." That's the Armistice

Commission. Now, this, as you will recall, was Bayer's request to introduce a patent law in France. Does this refresh your recollection as to whether or not you mentioned the Armistice Delegation in this connection?

A. No, not even now. I only remember that Herr Bo wanted to have documents from me concerning the establishment of the introduction of patent law in France. Now, whether we talked in connection with this about our request to the Reich Ministry of Justice or not, I can't remember that.

Q. You are just mentioning the German Ministry of Justice. My question referred to the copy which was sent to the German Armistice Delegation.

A. I am not informed about that because these matters of patent law and legal points were not within my sphere of work. I only know them by reading about them.

Q. You will be shown NI-7637 which we will introduce in evidence as exhibit 2345. This is a letter to Hoerlein, Bruoggemann and Mann of February 10, 1941. Do you see the handwritten remark in the right top corner, "Prokurist, W. Schmitz"?

A. Yes, that's me.

Q. Will you please read the short letter and tell me whether this refreshes your recollection as to whether your patent suggestion was also sent to the German Armistice Delegation?

A. Yes, that's right. Now I remember having seen this letter.

Q. Now, Mr. Schmitz, I come back to the document I showed you before, your letter to Bruoggemann of May 12, 1941 which was Mann exhibit 186, where you say this, and I quote: "The report in question" -- you are

again speaking of Bayer's report to the Nazi authorities concerning a patent law to be introduced in France -- "The report in question is the one transmitted to the Reich Ministry of Justice on October 10, 1940, which, however, is not suitable for presentation in total to Monsieur Bo since in this report infringements of Rhone Poulenc, where imitation was concerned, are rather too sharply stressed." Can you tell us what was Farben's purpose in stressing Rhone Poulenc's infringements too sharply in its report to the Nazi authorities.

A. The firm of Rhone Poulenc was the firm which had damaged us most of all during the last decades, by virtue of their imitations.

Q. Just try to answer my question why it was stressed too sharply. That's all I am asking.

A. Too strongly in this case refers of course to the sensitivity of the firm of Rhone Poulenc. May I continue with my explanation from before?

Q You answered the question. Coming back to Mr. Bo's spontaneous request for a patent law in France, was not Rhone-Poulenc after this agreement was entered into in a worse position than any other pharmaceutical firm in France in that Rhone-Poulenc had to pay license fees for the manufacture or the sale of Bayer products which any other possible manufacturer in France might have taken up without paying such royalties?

A No, I can't say that. In as far as the products that Rhone-Poulenc imitated are concerned they were the only firm in France doing that. There were no other firms, and because of the complicated nature of the newer products, it could not be assumed that any other French firm would ever have taken up these imitations besides Rhone-Poulenc.

Q You will be shown Faure-Beaulieu's testimony, which is F-A-U-R-E---B-E-A-L-I-E-U--so you will be shown Faure-Beaulieu's letter to Mann of December 29, 1940, our NI-7666, which may go in as Prosecution Exhibit 2346. Will you please first tell us from the photostat before you is the handwritten initial "SEH" your handwriting?

A Yes, it is. That is my sign.

Q Will you please look at this note enclosed with Faure-Beaulieu's letter, Article 6, paragraph 2, which reads, "The obligation which Rhone-Poulenc and Specia accept vis a vis 'Bayer' already in itself puts this firm (id est Rhone Poulenc) into an unfavorable situation with regard to every other possible manufacture who, either through processes other than those which are protected, or through the expiration of patents, or the lack of patents, might take up the manufacture of the sale of products invented by 'Bayer'." Now, do you recall that you read this note at the time?

A Oh yes, I can. I remember.

Q Just a minute, I would like to ask my question first. Does this refresh your recollection as to whether Rhone-Poulenc, after this license agreement was entered into, was eager to have introduced some protection of pharmaceutical processes in order not to be at such

manifest disadvantages towards all other French manufacturers—does this refresh your recollection as to whether Rhone-Poulenc after this license agreement was entered into was eager to have introduced some protection of pharmaceutical processes in France in order not to be at such manifest disadvantage towards all other French manufacturers?

A Yes. The firm of Rhone-Poulenc before the signing, as well as afterwards, insisted themselves upon the introduction of patent laws.

Q Just a minute. My question was whether you know either from your recollection or on the strength of this document why Rhone-Poulenc at that time wanted to have a patent law to be introduced in France?

A Rhone-Poulenc always emphasized towards us that they, as the largest and most serious producer of pharmaceutical products in France, always would try to set patent laws, and that they always did that.

Q We shall now come to the affidavit of March 11, 1948, Mann Exhibit 201, Document Number 337, Mann Book Number IV, page 53. Is this affidavit before you?

A Yes.

Q Will you please turn to Number 2, where you say, I quote, "We succeeded in avoiding any direct interference of the German authorities." Will you please tell us whether there was any German Government agency which tried to interfere or which had indicated that it would interfere with your negotiations with Rhone-Poulenc?

A Already when they made the preliminary steps the Reich authorities in Berlin, of course, interfered, when they heard about the first trip that Mr. Mann made to Paris. They asked Herr Mann about his plans and intentions and commissioned him that he should report to them when he returned from Paris.

Q Is that what you would call "interference"?

A Well, not an interference perhaps, but certainly a taking

of interest.

Q Mr. Schmitz, do you know anything about German officials, and, if so, please state who, approaching Farben and Bayer in particular expressing the wish that Bayer should acquire a participation in Rhone-Poulenc.

A Those were the gentlemen of the Reich Ministry of Economics to whom we reported about our plans and who then simply agreed to our intentions.

Q Now, Mr. Schmitz, do you recall that I interrogated you in Nurnberg on January 14, 1948?

A Yes.

Q And do you recall whether at the time you made your statements under oath?

A Yes.

Q Did you sign and correct your statements before signing?

A Yes.

Q Now, I will read to you two questions and two answers from this interrogation. Please tell us whether you recall this statement. If you wish to see the entire interrogation as signed by you, please so indicate.

DR. TUERK: Objection, Hr. Commissioner. It is customary at this trial that if something is being read into the record from a document, this document is being offered at least for identification and that at least defense gets a copy of this document.

MR. NEWMAN: Though I don't agree in principle, I don't have any objections to submitting a copy to both the court and defense counsel.

DR. TUERK: I withdraw my objection.

BY MR. NEWMAN:

Q Now, I will quote from my interrogation. And for the record, just for identification, this interrogation will become Prosecution Exhibit 2347, NI-13561.

"Q. Now, so that we don't get lost in too many details, I should like to put some definite questions to you." Now, the question is word by word the same as the one I just put, but I shall put it again:

"Q Do you know anything about German officials - and if so, state who, approaching Farben and Bayer in particular after the collapse of France, and demanding or expressing the wish that Bayer should acquire a participation in French industrial firms, namely, in Rhone-Poulenc?

A No, to us in particular.

Q Excuse me, is your "no" a reply to the question whether you know this, or do you mean that no such demand was ever made to you?

A No, not to my knowledge. We only knew that on the German side there was an earnest desire--an urgent one is too much to say-- for a close relationship between the German and French manufacturers of the same category of goods". Now, do you recall this interrogation?

A Yes, entirely.

Q Now, coming back to your affidavit, you also say under the same number that Bayer was very anxious that negotiations should be conducted purely on the basis of a private transaction. In this connection, I would just like to ask you this. Are you the author of the minutes of the meeting between Bayer and Rhone-Poulenc of November 29 to December 2, 1940--just a minute--which is Prosecution Exhibit 1269, NI-7629, Document Book 59, English page 55, and German page 87--if the minutes are before you, please tell us whether you are the author?

A Yes, as an expert for France, I took part in the meeting, and I was the author of this transcript.

Q. Thank you. I am now turning to your affidavit again dated March 11, 1948, Mann Exhibit 211, Document Book 373, Mann Book IV, page 80. In this affidavit you are speaking of the pre-war agreements between Rhone-Poulenc and Bayer. My question is: Had Rhone-Poulenc lived up to its pre-war agreements with Bayer?

A. As far as they were connected with the contracts, yes.

Q. In this affidavit you also state that at the meetint in Paris of November 29 and 30, 1940, Rhone-Poulenc's Monsieur Grillet spontaneously offered to pay royalties for certain products. Now, do you mean by "spontaneous" that this offer was made immediately following Mr. Mann's threat, and I quote from your contemporaneous report, Prosecution Exhibit 1269, NI-7629, Document Book 59, English page 55, German page 87, I quote: "That he" — that is Mr. Mann — "must return his assignment to the German Government as a failure and he hinted that the French side might later on regret its neglect of using the opportunity afforded by our present willingness to come to terms". Is that what you mean by "Grillet's spontaneous suggestion"?

A. Mr. Newman, you said before "threat", but I can't remember that there was any threat made during the meeting of the 29th and 30th of November. I myself, as you know, was one of the participants. Discussion at times was lively, but a threat never was voiced. Now, if in this transcript, if I mention the word "order", then will you please consider the following: This transcript was drawn up a week after the meeting in Paris had taken place and was based on hand-written notes and memos which I made in the course of the meeting on loose

sheets of paper. I don't remember that in the meeting itself the word "order" was mentioned at all, but on the other hand I can remember very clearly that Mann expressed his deep concern about the fact that Rhone-Poulenc perhaps might get more disadvantageous conditions by way of an armistice treaty than if they would conclude negotiations with us, that is to say by anticipating the treaty by a contract of a private economic nature.

Q. And Monsieur Gillet made his suggestion after Mr. Mann had expressed what you just called his "deep concern"?

A. Yes, that is just what it was.

Q. May I suggest, Judge Crawford, that this is the proper time for adjournment. The defense counsel just asked me to inquire when this interrogation can be continued.

THE PRESIDENT: Yes. We will find out when it can be continued. We will recess for how long, Mr. Amchan?

MR. AMCHAN: Well, I suggest, your Honor, that you recess until nine-thirty and we will arrange tomorrow morning for a continuation of these hearings dependent upon the calendar that you have in the morning.

THE PRESIDENT: The Commission will be in recess until nine-thirty tomorrow.

(The Commission of Tribunal VI adjourned until 7 May 1948, at 0930 hours.)

CERTIFICATE OF COMMISSIONER

I, JAMES G. MULROY, AGO 13-397399, hereby certify that I am a duly appointed, qualified and acting Commissioner, to take the testimony of witnesses under Order of Tribunal No. 6, in the case of United States of America vs Krauch et al; that pursuant to said Order, upon the dates hereinafter listed, I have supervised the taking of testimony of witnesses examined before me, and said testimony has heretofore been properly recorded, reported and filed in the Office of the Secretary General and now constitutes a part of the official transcript of proceedings in the above case; and the dates of such examinations, names of witnesses and pages of said official transcript are as follows:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
6 May, 1948	Ernst Hackemann	13739-13751
6 May, 1948	Gerhard Dietrich	13752-13771
6 May, 1948	Guenther Schiller	13772-13783
6 May, 1948	Herbert Ulitzka	13784-13797
7 May, 1948	Gustav Lurr	13894-13924
7 & 8 May, 1948	Rudolf Doemming	13925-13963
8 May, 1948	Max Faust	13965-14041
12 May, 1948	Karl Bayer	14458-14490
12 May, 1948	Fritz Schermuly	14492-14507

I further certify that the aforesaid transcript pages comprise a full, true and correct report of said proceedings, testimony and evidence heard and recorded at proceedings before said Commissioner.

Dated at Kurnberg, Germany, May 24, 1948

James G. Mulroy

Commissioner of Tribunal No. 6

Received
1 Original, signed
1 Memo, signed
43 Memo Copies

Official Transcript of Military Tribunal VI, Case VI,
Commission, in the matter of the United States of America
against Carl Krauch, et al, defendants, sitting at Nurnberg,
Germany, on May 6, 1948, 1330 hours, Commissioner Mulroy
presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats,
The Honorable, the Commissioner of Military Tribunal VI.

The Commission is now in session God save the United States of America
and this Honorable Commission.

There will be order in the Court.

MRS. KUFELMAN: If Your Honor pleases, some of the Defense counsel are
not here. Mr. Hinskoff, who is probably going to cross-examine certain
of the defendants and affiants is not here yet either. Perhaps we will
just simply have to wait.

THE COMMISSIONER: I was going to ask that question. The first thing
is as to whether or not Defense counsel had received proper notice of
this meeting, and whether or not all defendants interested were present.
I will defer that and perhaps we had better recess perhaps for 10 minutes.
Do you think that will be enough?

This hearing is in recess for 10 minutes.

(Hearing in recess until 1355 hours.)

(After recess)

THE MARSHAL: The Commission is again in session.

DR. NATH: Dr. Nath, counsel for the defendant, Dr. Ilgner.

THE COMMISSIONER: Dr. Nath, are you sufficiently well acquainted with
the situation as to the defendants to say that all of the defendants
who are interested in this hearing, together with their attorneys, are



now present?

DR. NATH: Mr. Commissioner, I announced during the Court session that there was a Commissioner's hearing today, and my client and Mr. Gattineau are here. I believe the rest of the defendants are not interested to be here.

THE COMMISSIONER: Very well. I will ask the Marshal to report the defendants who are now present.

THE MARSHAL: If it please Your Honor, the defendants Ilgner and Gattineau are present in the Courtroom.

THE COMMISSIONER: Thank you, Mr. Marshal; Are there any other matters for the record which either Defense or Prosecution wish to place upon the record before the examination of the witness begins?

You may proceed, Dr. Nath.

DR. NATH: (Defense Counsel for defendant Ilgnor): With the Commissioner's permission, may I call Dr. Hackemann to take the witness stand for cross examination by the prosecution?

THE COMMISSIONER: Yes, please proceed.

Dr. Nath, may I inquire, is this witness German?

DR. NATH: Yes, Mr. Commissioner.

ERNST HACKEMANN, a witness, took the stand and testified as follows:

THE COMMISSIONER: Mr. Witness, you will raise your right hand, say "I" and state your name.

THE WITNESS: I, Ernst Hackemann.

THE COMMISSIONER: Repeat this oath after me: I swear by God, the Almighty and the Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

You may be seated, Mr. witness.

Before commencing your testimony, are you familiar with the lighting system?

THE WITNESS: No.

THE COMMISSIONER: Then I'll explain it to you. When you see the red light you must pause until you are directed to proceed. When the yellow light is flashed, that indicates that you are proceeding too rapidly and you will have to reduce your speed. Please speak rather slowly and as distinctly as possible and answer the question asked you as briefly as is consistent with the clear statement of the facts.

You may proceed, Dr. Nath.

DIRECT EXAMINATION

BY DR. NATH:

Q. Dr. Hackemann, would you please state your full name and your present address for the record?

A. Ernst Hackemann. Tuebingen.

Q. Mr. Hackemann, you rendered an affidavit dated 1 March 1948. That is Ilgner Document #158 and is Ilgner Exhibit #125. Do you have that affidavit of yours before you?

A. I have an exhibit before me, 124, and I have another one which bears no number. That's document 158.

Q. We are only concerned with the latter here, Mr. Hackemann.

A. Very well.

Q. I want to find out from you whether you have any supplementation or corrections to make in regard to that affidavit of yours?

A. No.

DR. NATH: Then the witness is open for cross examination.

THE COMMISSIONER: The prosecution may proceed with the cross examination.

This is Mrs. Kaufmann?

CROSS EXAMINATION

BY MRS. KAUFMANN:

Q. Now, in your affidavit, which is Ilgner's Exhibit 125, that's the document marked #158, you discuss the Prosecution's Exhibit 807. This was a note of a conference to extend the propaganda activities of the International Central Office for Joy and Work to South America which you

attended as a representative of Farben. You state in your affidavit that you were not under the impression that relations had existed at the time of the conference between I. G. Farben and the office of the German Labor Front which sponsored the conference, but rather than an attempt was made to get I. G., which had so far declined to put its members at the disposal of the organization of Joy and Work, to cooperate with that organization. What were the facts that caused your impression that Farben had, until the time of the conference, declined to put its representatives at the disposal of the organization Joy and Work?

A. That was the overall impression that I gained from that meeting and when I was welcomed in that conference I was told that they were glad that finally somebody from the firm would give an opportunity to that office of explaining the aims and purposes of the Central Office Joy and Work to the firm. Apart from that I noticed from the questions that the Secretary General of that Central Office asked me -- this man was a certain Mr. Manthey -- I set down this impression of mine in my file note which the prosecution has submitted and on the basis of which I swore out my affidavit, for that file note undoubtedly comes from me. I'm the author because it bears my dictation initials. Apart from that I remember that conference and I was able to find out that it was held on that particular date.

Q. Mr. Witness, you stated in your affidavit that you had the impression that, until the date of the conference, Farben had declined to cooperate with that organization and my question to you was, what were the facts which gave you the impression that Farben had declined? Can you

recall those facts?

A. Yes. It was strange that in a conference in which originally Dr. Loy personally wanted to participate as I was told later, such an insignificant representative of the firm as I was sent there.

Q. Was that the only reason that caused you to conclude that Farban had declined to cooperate in the activities of the Strength through Joy?

A. Well, this was not the office Strength through Joy, but it was Joy and Work. That's something different. This was a so-called leisure hour organization the purpose of which and the aim of which was to help the worker in working out programs for his leisure hours, and, when making my report to the firm, and particularly when I gave my oral lecture to Dr. Kersten, whom I have mentioned here, I had the distinct impression that I was sent there on purpose and that no other representative of the firm had been chosen for that task, because the entire reception that that meeting got was of such a nature one considered this organization Joy and Work as something ludicrous and after all, that's what it was.

Q. Did the organization Strength through Joy have anything to do with the organization of Joy and Work?

A. That's asking a little too much at the moment for I'm not so well informed about the organization of the NSDAP that I could now, under oath, make a statement that would perhaps later turn out to be incorrect. I can say only this much. This office Joy and Work was an agency which was subordinate to Dr. Loy personally and since Dr. Loy was the chief of the organization Strength through Joy, I assume that there was a close connection between these two organizations and that the office Joy and

Work was perhaps a subordinate group of the DAF, the German Labor Front.

Q. Now, who gave you the order to attend the conference? Do you recall?

A. I can't remember that now. I assume it was Dr. Kersten who was my immediate chief, to whom I reported afterwards personally; I remember that fact very well because of the somewhat ludicrous remark that Dr. Kersten made about the organization and in particular about an illustrated magazine in four or five languages which was published by this organization in a very fancy edition, by German standards, at least.

Q. Did Farben distribute that magazine?

A. Farben was to take over a few sponsorship copies. It was to pay for a certain number of copies of this magazine and to distribute them through its net of representatives in South America. As far as I know, these copies were never distributed because Dr. Kersten was opposed to the entire idea and particularly to calling the Farben liaison men into this distributing organization.

Q Did Kersten tell you that Farben was opposed to having its employees participate in Strength through Joy trips or in the projects proposed in that conference?

A Please repeat the question, for the first thing that was concerned here was the distribution of magazines. The Strength through Joy trips was only touched upon incidentally during that meeting.

Q The meeting did discuss Strength through Joy trips, is that correct, Mr. Hackemann? You can give a yes or no answer to that question.

A Yes. During that conference the possibility of a Strength through Joy trip to South America was mentioned as an aim that should be striven for, by this leisure time organization.

Q Now, my question to you is, did Kersten tell you that Farben was opposed to its employees participating in the Strength through Joy trips? Now, Mr. Witness, I notice that you are thumbing through papers, etc. I should think this would be a matter for your recollection. Did Mr. Kersten tell you that Farben was opposed to those trips or did he not?

THE COMMISSIONER: Now, Mr. Witness, questions of that kind can be answered in one of three ways. You may say either "Yes" or "No" or "I don't know" and that will save a good deal of time.

THE WITNESS: Well, the fact whether or not Farben employees

The Witness: Well, the fact whether or not Farben employees were to participate in Strength through Joy trips was not on the agenda of that conference.

DR. HATH: May I make a correction for the record. There is a name mentioned, Dr. Kersten, but his name should be Kersten not Kirstein.

THE COMMISSIONER: The record will show the correction.

BY MRS. KAUFMANN:

Q Did the conference discuss trips through South America on the subject of either Joy and Work or Strength through Joy?

A The Secretary General of that Central Office said, among other things, that for a later period Strength through Joy trips to South America were planned.

Q Now, I'd like to know more specifically than you have put into the record what were the objections voiced by Kersten to the proposals of the conference?

A That it wasn't, as a matter of principle, the firm's intention, as a commercial firm, to interfere with the work of the Central Office Joy and Work.

Q Did you know that a Farben representative and official had participated in a Strength through Joy program in South America? Did you know that?

A No.

Q In that connection I show you Prosecution's Document

NI 14320 which will be introduced as Prosecution's Exhibit 2350 and I direct -- this is a newspaper article which discusses an interview of Frank-Fahle, dated April 25, 1937. On the second page of the exhibit you will note the article states, as quoting Frank-Fahle: "One of the beautiful experiences I made here and which I will never forget is a Strength through Joy trip which I made with employees and workers of Anilinas Alemanas to the Delta of the River Tigre. The same spirit which expresses itself in our employees and workers at home also reigned on this boat. I believe that the Argentine co-workers who represent a large part of the employees and workers of Anilinas Alemanas were also happy to feel this German spirit of Unity." Now, does this refresh your recollection that a Farben employee, an important official, participated in one of the projects which were subsequently discussed at this conference which you attended? Mr. Witness, that requires a simple answer as to whether or not this refreshes your recollection. Does it?

A During that conference we weren't concerned with having firms make excursions with their staff of workers.

Q Mr. Witness, I am asking you the question whether this refreshes your recollection that a Farben official participated in a trip in South America, conducted by the Strength through Joy organization.

THE COMMISSIONER: Mr. Witness, all you have to answer is whether or not it does bring the thing to your mind. Does it or doesn't it?

BY MRS. KAUFMANN:

A Yes, as I assume, this was short excursion lasting one day on a motor boat...

Q Are you talking about your recollection now, Mr. Witness?

A No, I am reading this from the newspaper article where there's something in here about an excursion on a Lancha, that is a motor boat, to the Tigre Delta.

Q Mr. Witness, I don't believe you understood the question which was put to you. You were simply asked whether or not you remembered that a Farben official had made such a trip. Do you remember?

A Dr. Frank-Fahle, who is mentioned here, undoubtedly did participate on this excursion on the motor boat.

Q Now, as a matter of fact, Mr. Witness, you were not told by Mr. Kersten, were you, that Farben objected in principle to the projects discussed in this conference, were you?

A Mr. Kersten expressed to me quite distinctly that this entire program which was expected from I.G. Farben's liaison men called into this work of the Central Office - that this entire consultation and calling in of these people was dis-

agreeable to him because he didn't approve of the aims and purposes of that Central Office.

Q Now, you knew very little - You say in your affidavit that you knew very little about the organization Joy and Work, is that correct?

A I know only what I learned about in this organization Joy and Work from that conference.

Q So the conclusions and opinions which you state in your affidavit concerning the objectives and activities of that organization are pure speculation on your part, isn't that so?

A In the file note which I drafted after this conference at the time, I set down everything that I heard about this organization during that conference.

Q I'm not talking about the file note which you drafted which is Prosecution's Exhibit 807. I'm talking about Ilgner's Exhibit 125 which is your affidavit, in which you state certain conclusions and opinions concerning the objectives of the Joy and Work organization. Now, my question to you is this, those conclusions and opinions which you give in your affidavit are not based on any facts that you know of concerning the organization, is that correct?

A May I ask you what sentences of my affidavit you are referring to?

Q In discussing the organization you say: "There can

be no claim of its being an organization engaged in so-called Fifth Column activities and least of all in any war like preparations." Now, what did you know about that organization except for the conference which you claim that you attended that would cause you to draw that conclusion?

A I never again heard about this organization at a later time apart from seeing the five-language magazine of that organization in a waiting room of some dentist.

Q Now you have answered my question, Mr. Witness.
There will be no further questions.

THE COMMISSIONER: Is there redirect, Dr. Nath?

REDIRECT EXAMINATION

BY DR. NATH:

Q Dr. Hackemann, you said before, during cross examination, that the Central Office of which we are here speaking, may have been a subordinate department of the German Labor Front and in that connection you referred to the assertion that Dr. Ley was Chief of the German Labor Front and the Central Office was directly subordinate to him. Dr. Hackemann, is it correct if I assume that that is a conclusion of yours or do you have any positive knowledge about the facts which justify this assumption of yours?

A No, it is an assumption of mine which is based on the fact that the Secretary General Manthey said when he opened the meeting that he regretted that Dr. Ley, contrary to original expectations, could not personally participate in that meeting. May I also state that Dr. Ley was the chairman of this international congress which was concerned in this entire organization.

Q Dr. Hackemann, then you cannot say with certainty that that organization was a part of the German Labor Front?

A No.

Q Thank you. Dr. Hackemann, the Strength Through Joy trips were mentioned here, and anyone who experienced these in Germany has a certain concept about them. I think it would be helpful for the record if you would, in your own words, express your opinion about the Strength Through Joy trips which we experienced sufficiently in Germany, and, in particular, you should take into account and answer the question as to whether these Strength Through Joy trips were Nazi propaganda which might possibly even serve the preparation of a war.

A As far as I can remember, I personally never took part in the so-called Strength Through Joy trips. I do not understand by Strength Through Joy trip a short excursion on a motorboat, as Dr. Frank-Fahle took part in, in Buenos Aires. I understand by a Strength Through Joy trip a longer voyage organized by the Strength Through Joy ships which went mostly to Madeira. Or I am thinking in that connection of a trip by motor bus to

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the Bavarian mountinae. This was a pure organization to occupy the leisure time of the workers because the leaders of the Third Reich apparently believed that the workmen would not be able to arrange their own leisure time, or some advantage was to be offered to these people in order to take the edge off the social division and the social question. But that is my opinion about that and that doesn't have to coincide with Mr. Ley's opinion. If these trips had been of any military purpose, then I believe I am in a position to judge that, because I myself was an active soldier for more than twenty years, and resigned from the Wehrmacht only in 1934 upon the insistence of the Party. But I believe I have sufficient knowledge about military things that I would have noticed it, if that had been the case.

I may also state that during a trip I had personally an opportunity of convincing myself of the impression which the Strength Through Joy travelers left behind on the island of Madeira.

THE COMMISSIONER: Let me interrupt a moment, Mr. Witness. Dr. Nath, do you think the witness has answered your question fully? ----- Will you ask another please?

DR. NATH: Thank you, Dr. Hackemann. What Mr. Commissioner has stated is quite correct. I want to ask only one more question.

Q Is it a fact that these trips served for the recreation

of the workers?

A These trips were to serve for the recreation and amusement of the workers.

Q Thank you. Dr. Hackemann, a last question: You said that Dr. Kersten did not want to know anything about the activity of the Central Office and that, as a result, he refused to have the magazines distributed by the agencies and representative net of Farben. After this one conference, did you ever again have to deal with this matter and did Farben take any initiative in that direction at a later time?

A As far as I know, I never took part in another meeting of that Central Office, and, as far as I remember, I never had any correspondence about this affair, nor did I see any correspondence which was kept about this matter.

Q Thank you. I have no further questions.

COMMISSIONER MULROY: Is there any further questions of this witness?

Hearing nothing, the witness will be excused. (Witness excused).

Have you another witness, Dr. Nath?

DR. NATH: Yes.

MR. HINSKOFF: I believe, Mr. Commissioner, that the witness Dietrich for Duerrfeld will be the next witness before the Commissioner.

COMMISSIONER MULROY: Is Mr. Duerrfeld's counsel here?

MR. MINSKOFF: Dr. Seidl is here.

DR. SEIDL: I ask that the witness Dietrich be called to the witness stand. This is Dr. Seidl for Duerrfeld.

COMMISSIONER MULROY: Very well, Dr. Seidl. The witness Dietrich will be brought in, please.

(GERHARD DIETRICH, a witness, took the stand and testified as follows:)

COMMISSIONER MULROY: Mr. Witness, you will please raise your right hand, say "I", and state your name.

WITNESS: I, Gerhanrd Dietrich.

COMMISSIONER MULROY: And repeat this oath after me: I swear by God the Almighty and Omnisicent, that I will speak the pure truth and will withhold and add nothing. (The witness repeated the oath.)

The witness may be seated.

DR. TRABANDT: The witness gave to the Defense an affidavit on the 12th of December 1947 which was Duerrfeld Document 405 and Exhibit 102 for Duerrfeld and which can be found in Duerrfeld Document Book 5, on page 108.

DIRECT EXAMINATION

GERHARD DIETRICH

BY DR. TRABANDT:

Q Mr. Dietrich, would you please again state your full name for the record?

A Gerhard Dietrich. I was born on the 20th of October,

1903, in Breslau. I am a resident of Weilheim, Upper Bavaria, Murnauer Strasse.

Q Mr. Dietrich, under paragraph 1 of your affidavit you say:

"Because I am a Jew, the Special Court of Breslau sentenced me to a prison term of one year and two months. What was the reason for the trial against you?

A The violation of the "Nurnberg Laws and race defilement.

Q When you say "race defilement," the Nazi legislation meant intercourse between Jews and non-Jews of opposite sex, is that right?

A Yes.

Q Mr. Dietrich, under paragraph one of your affidavit you further state that you were in Buchenwald, Gross Rosen, Dauchau, Aschwitz I, and in Monowitz.

Since you were in such a large number of concentration camps, did you work on any other places, apart from the Farben plant?

A. Yes, in the quarry in Buchenwald; in Gross Rosen I also worked in the quarry in the German Earth and Stone Works, the DEST.

Q. And if you compare that work with your work in the Farben plant in Auschwitz, what result do you arrive at?

A. As far as I am concerned, I don't have to talk about my own person because I was a Capo and Senior of the block and therefore I didn't suffer.

Q. We now touch upon another point. You were a Capo?

A. Yes.

Q. We know from other examinations that Capos sometimes conducted themselves in a very improper manner. Was your conduct as a Capo at any time investigated?

A. It was investigated in that respect that I remained in my position as Capo for a long time and never gave any reason for complaints.

Q. Mr. Dietrich, your affidavit you gave voluntarily and without any influence having been exerted upon you, is that correct?

A. Yes.

Q. And did you sign it without coercion and quite voluntarily?

A. Yes.

Q. Do you have any additions, corrections and supplements to make to your affidavit?

A. No.

Q. Thank you. I have no further questions. The witness is with the Prosecution.

COMMISSIONER MULROY: The Prosecution may cross-examine.

I should like to say to the witness: Mr. Witness, you will see two lights in front of you, one yellow and the other red. When the yellow light flashes, that indicates that you are speaking too rapidly, and when the red flashes, you should stop until you are told to go ahead. Make all your answers as short as possible and speak clearly and slowly.

You may go ahead, Mr. Minskoff. —

CROSS EXAMINATION

GERHARD DIETRICH

MR. MINSKOFF: Thank you, sir.

BY MR. MINSKOFF:

Q. Mr. Witness, you state in your affidavit that the accommodations in Monowitz were the best possible for the prisoners. Now, isn't it a fact that the concentration camp Buchenwald, in which you were also, had barracks which were better than those of the Monowitz barracks, since the Buchenwald barracks were divided into two parts and contained dayrooms?

A. Yes, that is correct.

Q. Now, Mr. Witness, isn't it also a fact that in the Main Camp Auschwitz the housing of the inmates was much better than in Monowitz?

A. That is true.

Q. There were large stone buildings in Auschwitz, were they not?

A. Yes.

Q. And didn't each building have toilets with running water and washing facilities?

A. That is true.

Q. Now, Mr. Witness, in comparison with those facilities in the concentration camp Auschwitz, isn't it true that there was only one wash barracks for every six to eight living barracks in Monowitz?

A. Yes, that is true.

Q. Now, Mr. Witness, were there really ever enough washing facilities at Monowitz for inmates to keep themselves clean?

A. No.

Q. Did the toilets in Monowitz have running water?

A. No.

Q. Mr. Witness, can you tell the court the procedure that an inmate would have to go through if he had to go to the toilet at night in Monowitz?

A. If he had reported out with the night guard, he was in danger of being shot by the tower guard.

Q. And that was because there were no facilities within the barrack itself of which he could avail himself, isn't that so?

A. Yes, that is correct.

Q. Now, Mr. Witness, in paragraph 3 of your affidavit you speak of the quantities of food given to the inmates at Monowitz and also about the additional soup which the inmates received in I.G. Auschwitz. Now, isn't it a fact that when you were at the Dachau concentration camp you received much better food there than you received at Monowitz and I.G. Auschwitz?

A. Yes. Dachau was an old, original camp. That was the reason for that.

Q. Now, Mr. Witness, isn't it also a fact that even at the Buchenwald concentration camp the food was better than at Monowitz?

A. That is also true.

Q. Now, Mr. Witness, before answering the next question I want you to think very carefully. During the time that you were at Buna, that is at I.G. Auschwitz, and at Monowitz was the food sufficient in relationship to the work which was expected of the concentration camp inmates?

A. For the undernourished inmate, the food was never sufficient.

Q. Would you say, Mr. Witness, that the condition of the average inmate was obviously such that the Hoisters and foremen with whom he worked could see that he was undernourished?

A. They had to see that.

Q. Now, Mr. Witness, you speak of there being no instruments of torture at Monowitz. Now, isn't it a fact that there was a standing cell in Monowitz?

A. Yes.

Q. Wasn't there also a whipping post in Monowitz?

A. I don't know that.

Q. Were there gallows in Monowitz?

A. Yes.

Q. And didn't you often pass those gallows when an inmate had been hanged?

A. Unfortunately.

Q. Mr. Witness, I asked you: Isn't it a fact that you often passed those gallows when an inmate had been hanged at Monowitz?

A. I said "unfortunately".

Q. Now, Mr. Witness, when you worked at the I.G. Farben construction site, did you ever talk to the foremen and Meisters about inmates who had been hanged?

A. It was always discussed with every Meister and assemblyman with whom I had contact.

Q. Now, Mr. Witness, did you ever speak to the Meisters or civilian foremen about inmates who had been punished with twenty-five strokes?

A. Yes.

Q. And isn't it a fact that when such an inmate returned to the I.G. Farben construction site that the foreman or the supervisor could see by his condition what had happened to him?

A. That is correct too.

Q. Now, Mr. Witness, you mention in your affidavit—I believe it is paragraph 14—that there were great changes in Monowitz in regard to the incoming and outgoing prisoners. Now, isn't it a fact that you personally knew that a great number of inmates were being gassed in Birkenau?

A. Yes.

Q. Isn't it a fact that you were particularly interested because your wife was gassed in Birkenau?

A. Yes.

Q. Now, Mr. Witness, were you the only inmate who worked at I.G. Farben Auschwitz who knew about the gassings of inmates at Birkenau, or was that general knowledge among the inmates?

A. No, all of the inmates knew that, and also the Meisters and

foremen with whom we worked also know that.

Q. Now, Mr. Witness, did you talk about these gassings to these foremen and Meisters and how did you know it whether they knew it or not?

A. That was always discussed with these free workers, and I also talked to them.

Q. Witness, you speak of the speed of the work at the construction site--I think in paragraph 9. Now, isn't it a fact that even though there were some cases where there was lighter work to be done, that the greatest majority of the inmates had to do heavy work at all times?

A. In the beginning, in Monowitz Buna the work was very difficult, until the middle of 1944. Then, after everything had been built up, things got easier, a little.

Q. Now, Mr. Witness, do you recall the work in Kommando 4?

A. Yes, that was a work detail where people had to carry cement.

Q. Now, do you recall whether there was a normal turnover of inmates in that Kommando or was there a very exceptional turnover in that Kommando?

A. In Kommando 4 the turnover of inmates was very large.

Q. Can you explain why?

A. The railroad cars that had to be unloaded there at the time had to be unloaded within a certain time. They had to be unloaded at a certain rate of speed and had to be finished by the time the working hours were over.

Q. Well, as a result, what happened to the inmates who worked there?

A. The work was done at an accelerated pace, as a result.

Q. Did the inmates break down as a result of that fast pace?

A. I myself never worked there and cannot say it with certainty.

Q. Well, how about Kommando 41, the demolition crew. What kind of work was that and how severe was that on the inmates?

A. That was a large demolition detail where the inmate had to carry bricks and where they were in charge of a very notorious Capo as their supervisor.

Q. And, Mr. Witness, will you describe the work of the cable kommandos.

A. The cable kommandos were very difficult kommandos. It was one of our biggest kommandos in Buna. The work was very strenuous. These large cable drums had to be transferred and laid in the ditches by several inmates.

Q. Now, Mr. Witness, isn't it a fact that during the winter days as many as twenty inmates were carried away from the Farben site back into Monowitz because they couldn't walk by themselves any more?

A. Yes.

Q. Now, Mr. Witness, you were in the kommando called the bookkeeping kommando, is that right?

A. That is right.

Q. Now, will you describe the kind of work you had to do in this bookkeeping kommando?

A. In the beginning we were used as bookkeepers -- as a bookkeeping detail, but later we were made available for other work and assigned to the MAN overhead pipes construction detail, where we worked on -- the laying of overhead pipes and all of the iron parts had to be unloaded and transported by us.

Q. Now, Mr. Witness, do you know about how much these iron beams weight that those details had to carry?

A. On the average ten to twelve hundred weights.

Q. And how many inmates would carry one?

A. Ten men.

Q. And could you say what the average weight of these ten inmates would

be?

A. 100 to 120 pounds.

Q. Now, Mr. Witness in connection with the work, is it not a fact that the I.G. Farben foremen used to write evaluation sheets each night?

A. Yes.

Q. And isn't it also true that if the Farben foremen reported the battalion under seventy percent, they would be punished with twenty-five strokes each?

A. If it was reported, yes, that is true.

THE COMMISSIONER: Mr. Minskoff, have you reached a point in your examination where we can take our customary recess?

MR. MINSKOFF: I think so, sir.

THE COMMISSIONER: Well, then we'll be in recess for ten minutes, until quarter after three.

THE MARSHAL: The commission is again in session. You may proceed Mr. Minskoff.

BY MR. MINSKOFF:

Q. Mr. Witness, going back for a moment to the testimony about the knowledge of gassings, isn't it a fact that about two or three times a week, open trucks drove along the I.G. Farben plant, going from Monowitz to Birkenau with inmates who were no longer able to work?

A. That is true.

Q. Now, wasn't it common knowledge among the inmates that those inmates no longer able to work were being sent to Birkenau to be gassed?

A. Yes.

Q. As a matter of fact weren't the clothes of the dead inmates returned very shortly thereafter to Monowitz?

A. That is correct.

Q. Now, Mr. Witness, you state at the end of your affidavit that you survived I.G. Auschwitz for three years. Now, isn't it a fact that you were what was known as an "old inmate", and that because of that fact and particularly because of the fact that you were aryanized while you were at the camp, that you were in a completely different position from the other inmates?

A. That is correct.

Q. Now, isn't it a fact, Mr. Witness, that the average span of the Jewish inmates at I.G. Auschwitz was a very short one?

A. Yes.

Q. Now, isn't it a fact, Mr. Witness, that the average span of the

Jewish inmates at I.G. Auschwitz was a very short one?

A. Yes.

MR. MINSKOFF: Thank you. No further questions.

THE COMMISSIONER: Is there any further redirect?

REDIRECT EXAMINATION

BY DR. SEIDL:

Q. Witness, at the beginning of your examination you testified that the affidavit was made voluntarily by you on 12 September — was I correct in understanding you?

A. Yes.

Q. The prosecutor asked you about the housing of the inmates in the camp of Monowitz, and I quote paragraph 2 of your affidavit.

MR. MINSKOFF: If Dr. Seidl is attempting to impeach his own witness the prosecution objects.

DR. SEIDL: I should like to refresh the witness's memory and afterwards put one question to him.

THE COMMISSIONER: Have you anything further to say as to Mr. Minskoff's objection for the record?

DR. SEIDL: Yes. The prosecution asked the witness about the housing of the inmates in Camp 4, and I should now to put two sentences to the witness which he himself wrote in his affidavit about that matter.

MR. MINSKOFF: Mr. Commissioner, if that isn't the clearest type of impeachment I don't know of any clearer one.

THE COMMISSIONER: I think counsel on both sides have sufficiently invited the Tribunal's attention to their position in regard to the

objection and I will ask now that the witness answer the question as briefly as possible.

DR. SEIDL: Witness, I will put to you what you said under paragraph 2. "Housing in the camp of Monowitz was very good. In comparison to other camps it was extremely pleasant." You said that you voluntarily signed this affidavit. May I assume that this includes the statements I just read?

A. Yes.

DR. SEIDL: The prosecution asked you about the food.

MR. MINSKOFF: Mr. Commissioner, the prosecution objects again. If he is going to go through the various paragraphs of the affidavit, that will serve no purpose whatsoever except to burden the record. The man has said he signed the affidavit and it was his affidavit. On cross examination by the prosecution it turned out that although he had said it was a good camp and better than other camps he explained that it was not as good as the Auschwitz concentration camp or the Dachau or the Buchenwald concentration camp. It may have been better than Gross Rosen or some other places. Now he is just going to read the paragraph and say, "Did you say that?" That is already in evidence. If he wants the witness to explain what he meant by it and if there is any confusion, that might serve some purpose. But I can't see any purpose in reading the paragraph and saying, "Did you say that freely?"

THE COMMISSIONER: Well, in effect you are renewing the objection you already made, Mr. Minskoff.

MR. MINSKOFF: Yes, Mr. Commissioner. Partly that and partly in view

of the question which came after the objection it now becomes clearer as to the nature of the objection being presently.

THE COMMISSIONER: I would like you, Dr. Seidl, to make your interrogations along this line just as brief as possible. I will not pass on this matter but I think there may be some merit in the contentions. We don't want to waste any more time.

DR. SEIDL: I shall use as little time as possible in my redirect examination. However I shall give you some reasons why I have to put a number of these sentences to the witness. Under paragraph 3 you say the following about the food: "From the point of view of quantity more food was distributed at Monowitz than in any other camp in Germany. By request of Farben every inmate received a soup at the noon meal amounting to half a liter." You said that you made that statement voluntarily. Tell me this. Does that also hold true of this particular passage referring to the food?

A. Yes.

MR. MINSKOFF: Mr. Commissioner, there might be a number of interlocutory questions we could ask from the beginning as to who wrote those sentences for the witness. But as to whether each paragraph was written willingly there is no issue and he is asking him, "Did you write this paragraph willingly?" Apparently the paragraph is very confusing and he meant something quite different from what he said. That is clear from his testimony before the commission. But the question whether it was willing when it was given is not important. It's a question of whether he understood it when he gave it.

DR. SEIDL: Mr. Commissioner, it's quite obvious that between the contents of this affidavit, which according to the witness's testimony, was given voluntarily and the answers he is now making to the prosecution, there is a considerable contradiction. It is the duty of every defense counsel to investigate the reasons for this contradiction.

THE COMMISSIONER: I think, Dr. Seidl, you may ask him to explain the variance between what he testified in oral examination and what is in the affidavit. I think if you will confine your questions to that will be entirely proper and possibly it will be fairly brief as well. Please proceed along those lines.

DR. SEIDL: Well I shall turn to such questions, but I do have to take up a position with respect to the most important points. Witness, you were also asked whether there were gallows at the Monowitz camp. Were these gallows used when certain executions were to take place or were they present in the camp throughout the entire time.

A. It was only there for the purpose of executions.

Q. You said that executions were carried out in Camp 4. Is it true that such executions were carried out in the case of inmates who were guilty of criminal acts towards other inmates?

A. I don't know about any of those criminal acts.

Q. Witness, you yourself were a Kapo at the Auschwitz camp of Farben. Did you at any time yourself beat an inmate?

A. No.

Q. Were the Kapos prohibited from beating inmates?

A. It was forbidden, but yet it was a general practice.

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A. No.

Q. Were the Kapos prohibited from beating inmates?

A. It was forbidden, but yet it was a general practice.

Q. Did the SS prohibit Kapos from beating inmates?

A. No.

Q. In your affidavit you state that you were the Kapo of Detail Number 40. Were the inmates in your work detail driven particularly to a greater output of work.

A. No.

Q. Did the firm where Kapos were employed, the Maschinenfabrik Augsburg-Nuernberg or its Richtmeister Blau exercise any pressure on you?

A. No there was a very favorable relationship between Richtmeister Blau and myself. Due to his own initiative the detail was well managed and was outside any danger.

Q. Witness you are saying the following in your affidavit, "The speed of the work at the work detail was always adapted to the physical capacities of the inmates." Is that still correct, according to what you know today? Or was it only true on the 12th of September, 1947?

A. It is true, but it always depended upon the management of the Kapos, or the management of any one particular work detail which I mentioned before.

Q. You were asked whether inmates were being transported toward Auschwitz along the borders of the Plant, and whether that happened twice or three times a week. Was this the road which was the main road leading toward the East from Auschwitz?

A. Yes, it was the main traffic route from Monowitz to Auschwitz. It led directly along the I.G. Plant and was called the "I" street.

Q. That was the main road between Auschwitz and Krakow, if I am correct; is that true?

A. No, I cannot tell you that exactly, but at any rate it led from Monowitz to Auschwitz.

Q. Did you observe such transports twice or three times a week?

A. Of course.

Q. How many inmates were on such trucks?

A. 80 to 100 men, approximately.

Q. How do you know that these inmates were not for instance, being transferred to another concentration camp or to another of the 40 labor camps belonging to Auschwitz?

A. One would hardly have taken fatally ill inmates into another labor

camp.

Q. Witness, don't you know that in a concentration camp Auschwitz, as well as in the Concentration Camp of Birkenau, there were large hospitals, and don't you know that inmates who were sent to Auschwitz or Birkenau were then returned to Monowitz after being cured?

A. I think there was only a very slight percentage where that was the case.

Q. Now witness, you have drawn up this affidavit on the 12th of September, 1947; are you a member, witness, of the Association of Persecutees by the Nazi Regime?

A. Yes.

Q. I am now asking you, reminding you of your oath, whether subsequent to that time, anyone approached you and asked you about the contents of this affidavit?

A. No.

Q. Was it someone from the Association or somebody from the Prosecution?

MR. MINSKOFF: I object to the question. He forgets this is his witness - this is apparently his witness, I should say, and the question is improper, obviously, for the reason and the implication is evident. Is it something wrong if he spoke to the Prosecution, and there is nothing at all --

THE COMMISSIONER: Are you objecting?

MR. MINSKOFF: This is an improper line of cross-examination.

THE COMMISSIONER: Are you making a motion to strike?

MR. MINSKOFF: No.

DR. SEIDL: I have no further questions to the witness, Mr. Commissioner.

THE COMMISSIONER: Is there any further re-direct examination of this witness?

MR. MINSKOFF: No further questions.

THE COMMISSIONER: The witness may be excused.

Mr. Prosecutor, do you know if there are any other witnesses available this afternoon?

MR. MINSKOFF: Yes there is another witness, Schiller, who is appearing now. I believe one further after this completes it.

THE COMMISSIONER: You mean two more witnesses?

MR. MINSKOFF: Yes.

THE COMMISSIONER: Let's try and get them done before half past four, or in case we cannot, we will try and take one witness; take the witness who will take the most time now.

MR. MINSKOFF: That is what we are doing, sir.

THE COMMISSIONER: Very well. Bring on the next witness.

Mr. Witness, you will please raise your right hand, state your name.

THE WITNESS: I, Guenther Schiller.

THE COMMISSIONER: And repeat this oath after me?

I swear by God, the Almighty and the Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: The witness may be seated.

For your convenience, Mr. Witness, please note that before you there are two lights. One is yellow and the other is red. When the yellow

light flashes, that means that you are speaking too rapidly and you should reduce your speed. The red light means that you should stop talking until you are directed to proceed. You are perfectly free to testify fully and completely as to any questions that are asked you, but you are also requested to make your answers as brief and responsible to the questions as possible. In the event that a question seems to you not fully developed, there is every chance that counsel will ask another question that will clear it up.

I think that is all. You may proceed, Dr. Nath.

DIRECT EXAMINATION

GUENTHER SCHILLER

BY DR. NATH: (Counsel for the defendant Ilgnor:)

Q. Mr. Schiller, would you please give me your full name and your present place of residence, for the record?

A. My name is Guenther Schiller, Weinheim, Bergstrasse.

Q. Mr. Schiller you have drawn up an affidavit on the 4th of March, 1948.

THE COMMISSIONER: Counsel, may I ask, - I have assumed that Mr. Schiller is German, that is correct, is it?

DR. NATH: Yes.

THE COMMISSIONER: He may proceed.

BY DR. NATH:

Q. This is Ilgnor Document No. 109 which bears Exhibit No. 116. Is your affidavit before you?

A. Yes.

Q. Do you have anything to add or change with respect to this affidavit?

A. No.

DR. NATH: The witness is available to the Prosecution for cross-examination.

THE COMMISSIONER: The Prosecution may examine.

CROSS EXAMINATION

GUENTHER SCHILLER

BY MRS. KAUFMANN:

Mrs. Kaufmann for the Prosecution.

Q. Now in your affidavit, Mr. Schiller, which is Ilgner Exhibit 110, you discussed a trip to the Far East which made by the defendant Ilgner in the summer of 1934. You joined Ilgner on that trip in the fall of 1934; isn't that correct?

A. Yes.

Q. Now you state in your affidavit that the Far East trip had no connection with propaganda or espionage. Had you ever know the defendant Ilgner to engage in propaganda or espionage?

A. No.

Q. What was your job in 1933, Mr. Witness?

A. In 1933 I was Dr. Ilgner's assistant.

Q. Now when Ivy Lee was called to Germany by the defendant Ilgner, it was you who took Ivy Lee to see Hitler; isn't that so?

DR. NATH: I object. The name Ivy Lee does not become apparent from the affidavit. The question of the Prosecution, in my opinion, is not

justified. I object.

THE COMMISSIONER: Perhaps, Mrs. Kaufmann, it might be well for the record if you will identify Ivy Lee. I am sure he is in the record in other places, but for the purpose of this examination.

MRS. KAUFFMANN: Ivy Lee is the American Public Relations expert who was called to Germany by the defendant Ilgner in 1933, and who prepared a program which was subsequently carried out by Ilgner and Farben and other organizations.

THE COMMISSIONER: My idea was you would have the witness say something about who Ivy Lee is.

MRS. KAUFFMANN: I had no intention of here introducing evidence into the record concerning Ivy Lee, because I believe the record contains considerable evidence on that subject. However, if you think it desirable Mr. Commissioner, I will be glad to do that.

THE COMMISSIONER: Well I will let you proceed in the way you think most appropriate, Mrs. Kaufmann.

You are making an objection, are you Counsellor?

DR. NATH: Yes.

THE COMMISSIONER: What is the grounds of your objection?

DR. NATH: The cross examination can only refer to the contents of the affidavit before us. From this affidavit the name Ivy Lee does not appear, nor is there any connection whatsoever with the subject of Ivy Lee.

THE COMMISSIONER: I think it is probably a preliminary question, Dr. Nath. Your objection will be in the record.

MRS. KAUFFMANN: I should like to state in reply to that objection,

Mr. Commissioner --

THE COMMISSIONER: Please do.

MRS. KAUFFMANN: The witness has stated in his affidavit that the defendant Ilgner did not engage in espionage or propaganda activities in his trip in the Far East, and the witness has also stated that he has never known the defendant Ilgner to engage in propaganda activities. I think that the question which is now directed to the witness in connection with Ivy Lee relates to the credibility of the witness, first on the question of his interpretation of the term "propaganda" and secondly, on his general credibility.

THE COMMISSIONER: I don't think the witness signified that he knew who you were talking about. He hasn't answered the question.

MRS. KAUFFMANN: Very well, the witness may answer the last question.

THE COMMISSIONER: Since quite a bit has been said after the question has been put, may I ask that it be repeated?

BY MRS. KAUFFMANN:

Q. Mr. Witness, when Ivy Lee was called to Germany by the defendant Ilgner it was you who took him to see Hitler; isn't that so?

A. Yes, I took Ivy Lee to Hitler.

Q. And it was the defendant Ilgner who requested you to arrange for that meeting; isn't that also true?

A. Yes.

Q. Now isn't it true that on the trip to the Far East, Ilgner undertook to establish better relations between the leaders of the Foreign Organization of the Nazi Party in the Far East, and not only I. G.

6 May-A-14J-23-8-Stewart (Ramler)
Court 6, Case 6 Commission II

Agencies thoro, but also German merchants in the Far East.

A. No.

Q. Now isn't it true that Ilgnor brought together the Chairmen of the German Associations in the Far East, and the Country and District Leaders of the Foreign Organization of the Nazi Party and tried to induce them to collaborate?

A. Whenever Dr. Ilgnor saw that there were conflicts between industry and the Party, and where such conflict endangered German trade, he tried to change that situation.

Q. Now my question to you was whether or not it was true that Ilgnor brought together the Chairmen of the German Associations in the Far East and the Country Leaders of the Foreign Organization of the Nazi Party and tried to induce them to collaborate?

A. It was not necessary to bring them together because they know each other anyway. If occasionally he arranged a meeting between members of industry and members of the party, he acted in the sense I stated before. He tried to bring about an understanding between these two agencies. He wanted German trade in the countries concerned not to be impaired.

Q. Now in connection with the last series of questions, Mr. Witness, I show you Prosecution Document marked NI 9511, which will be introduced as Prosecution's Exhibit 2351. This is an affidavit signed and sworn to by yourself, Mr. Witness, and I direct your attention to an item under No. 7 in which you state: "In the last summer of 1934, Ilgnor went on his big trip through East Asia, and some months later I followed to act as escort. Dr. Ilgnor on his own initiative was at pains on this journey to establish better relations between the representatives of the foreign organization and the German merchants abroad". I ask you, does that refresh your

recollection that Ilgnor attempted to establish better relations between the representatives of the foreign organizations and the German merchants, on his trip in the Far East?

A. These minutes are not in contradiction with what I said before. I said that these conferences only served the purpose of promoting German foreign trade and not to harm it.

Q. Now in your affidavit you state that this is Ilgnor's Exhibit 110, I am now talking about. You state that on---

DR. NATH: 109, isn't it?

MRS. KAUFMANN: It is Exhibit 110, I will say the Document referred to is Exhibit 110.

DR. NATH: No, Exhibit 116, Ilgnor Document 109.

THE COMMISSIONER: 116 is the way I have the exhibit.

MRS. KAUFMANN: Perhaps I can go on with the questions and then we can correct the record.

THE COMMISSIONER: Yes.

BY MRS. KAUFMANN:

Q. Now you stated that on Ilgnor's trips to South America you know that he did not engage in espionage or propaganda; is that correct?

A. Yes.

Q. You did not accompany Ilgnor on his trip to South America, did you?

A. No.

Q. Did you participate in the preparations for that trip?

A. Yes.

Q. Now you received reports from Schwarte who accompanied Ilgnor

concerning that trip; isn't that so?

A. Yes.

Q. Did you see the report of Schwarte which he sent in January of 1937 to the foreign office in which he discussed Ilgner's proposals for influencing public opinion in South America?

A. I do not know that document.

Q. I show you Prosecution's Exhibit 790, which is NI 070. This is the letter from Schwarte to the Foreign Office containing these proposals, and I ask you whether this refreshes your recollection that that was Schwarte's letter transmitting Ilgner's proposals to the Foreign Office for influencing public opinion in South America?

A. I do not know this document, but looking at the index on Page 1, I can see that this merely concerns proposals in reference to economic events,---

Q. Mr. Witness, you were asked a question as to whether this letter refreshed your recollection concerning a report sent by Schwarte. Does this letter refresh your recollection concerning such a report?

A. No. I do not know about this report.

Q. Now you talk about Ilgner's attitude toward National Socialism. Isn't it true, that Ilgner zealously exerted himself to secure good relations with the Nazi Party?

A. Yes, but only prompted by the point of view of industry.

MRS. KAUFMAN: I have no further questions.

THE COMMISSIONER: Is there further re-direct?

RE-DIRECT EXAMINATION

DR. GUENTHER SCHILLER

BY DR. NATH:

Q. Mr. Schiller, you were asked about Ivy Lee. You said that you took Ivy Lee to Hitler?

A. Yes.

Q. Was that in accordance with Ivy Lee's personal wish; did he want to make Hitler's acquaintance?

A. Yes.

Q. Is it a fact that Ilgner, in order to fulfill Ivy Lee's request, asked you to arrange it for him?

A. Yes.

Q. Furthermore, you were asked, and a passage of your affidavit, was cited which you gave to the Prosecution, about a conference which was arranged by Dr. Ilgner between the Chairmen of German Associations and Agencies of the AO-the Foreign Organization of the Party. My question is this: Did these efforts of Dr. Ilgner have anything to do with any propaganda for National Socialism or any espionage activities?

A. Not in the least, neither propaganda nor espionage.

DR. NATH: Mr. Commissioner, for the record, I must state that I must reserve the right to perhaps cross examine Dr. Schiller on the affidavit which has just been submitted.

THE COMMISSIONER: Which affidavit are you referring to?

DR. NATH: This is NI 9511, bearing Exhibit No. 2352.

I have no further questions.

THE COMMISSIONER: Is there any further re-direct examination.

DR. BACHEM, I should like to make the same reservation with respect to that document on behalf of Dr. Aschenauer, who was unable to attend here.

THE COMMISSIONER: Very well, the record will show it.

MRS. KAUFFMANN: The Prosecution can see no reason why the witness cannot be cross-examined with respect to that affidavit at the present time. The affidavit has been submitted to the Defense and is now in evidence.

THE COMMISSIONER: How long since the affidavit, - this new one, -- how long since that was submitted to the Defense?

MRS. KAUFFMANN: Just in the course of these proceedings.

THE COMMISSIONER: I know it is a fairly substantial document, and if there is to be cross-examination I do not know, -- it is only two pages, isn't it?

MRS. KAUFFMANN: I believe you have the wrong document. It is a four or five page document.

THE COMMISSIONER: I believe for any substantial cross-examination, -- I don't believe counsel has had the opportunity to scrutinize it so as to tell just what they want to talk about. It would be better if we could cross-examine now, Dr. Nath. Do you think it is impossible to cross-examine now, on this matter?

DR. NATH: Mr. Commissioner, your motives are mine; your reasons are mine. I am seeing the document for the first time now, and it is very extensive. I merely want to reserve the right, perhaps if I consider it necessary, to conduct cross-examination. As soon as I have read the document

I shall know.

THE COMMISSIONER: Very well, Dr. Nath.

MRS. KAUFMANN: The Prosecution would prefer not to have the right allowed to be deferred indefinitely. Perhaps he can state the time, and state whether or not he intends to cross examine with respect to this document.

THE COMMISSIONER: That seems reasonable. Can you make a time certain when you wish to cross-examine?

DR. NATH: Mr. Commissioner, as to that, according to the Tribunal's ruling, all examinations must be concluded by Wednesday. I think that by Monday, at the latest, we could conduct such a cross-examination.

THE COMMISSIONER: I understand that there may possibly be another hearing tomorrow. Would you be available at that time?

DR. NATH: As far as I understood Schiller correctly, he has to leave in a hurry.

THE COMMISSIONER: When?

DR. NATH: I think he's in a hurry. That's how I understood him. I believe that you're mistaken because I merely reserved the right for formal reasons. I am not at all sure whether I will conduct the cross examination but, at any rate, I will tell the prosecution if I do so decide as quickly as possible.

THE COMMISSIONER: All right. Mrs. Kaufmann?

MRS. KAUFMANN: No further comment.

THE COMMISSIONER: Any further examination of this witness? Prosecution? No?

MRS. KAUFMANN: No further examination.

THE COMMISSIONER: Defense?

The Witness is excused?

Is there another witness?

DR. GATHER (Defense Counsel for defendant Ambros): With the permission of the Tribunal I should like to call the witness Ulitzka.

THE COMMISSIONER: Will you bring the witness in, Mr. Marshal?

Counsel do you think you will be able to finish your examination by half past four?

DR. GATHER: Yes, as far as I am concerned I will be very brief.

HERBERT ULITZKA, a witness, took the stand and testified as follows:

THE COMMISSIONER: Mr. Witness, you will raise your right hand and state your name.

THE WITNESS: I, Herbert Ullitzka.

THE COMMISSIONER: Repeat this oath after me. I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

You may be seated.

The witness is with the defense.

DIRECT EXAMINATION

BY DR. GATHER:

Q. Witness, would you please state your full name for the record?

A. Herbert Ullitzka.

Q. What is your profession.

A. I am a certified engineer.

Q. You have drawn up an affidavit, Document OA 423, Document Book 4A of Otto Ambros, Gorman text page 54. This affidavit bears the date of 14 August 1947. Have you got that affidavit before you?

A. Yes.

Q. Have you anything to add to this affidavit? Do you want to change it?

A. No. Only for the sake of correctness I might state I was the head of the Works Combine Brichta-Bardubitzki, but the firm of Brichta soon left and the firm Bardubitzki was alone active at Auschwitz.

Q. Thank you very much.

13784

I only have a few questions with respect to the way you phrased your affidavit. You said in the fourth paragraph of your affidavit that you had been in possession of a pass which gave you the right to inspect camps. You went on to say that such inspections extended to Camps II, III and V.

A. Yes.

Q. Were you in possession of a pass to inspect Camp IV?

A. No. I must state that this pass did not actually entitle me to an inspection of the camp itself. It wasn't issued to me for that purpose but it was merely issued to me for the purpose of checking the food which was distributed among the workers. In the case of Camp IV, I did not receive a pass. I wasn't surprised about that because as far as I know Camp IV was always under the jurisdiction of the SS.

Q. Am I correct in understanding you that you mean to say that one needed a special pass which would have entitled a civilian to visit Camp IV and that that pass was generally not given to civilians?

A. That is the only way that I can explain that.

Q. Thank you very much.

Only one more question. A few lines down you say that Camp IV was considered to be the "Camp of Hope" for concentration camp inmates. What exactly did you mean to express by that? What did you understand that to mean?

A. I employed an inmate as an engineer within the sphere of my construction places. This engineer was assigned to me by the labor office of the Farbon plant upon my request. There was a scarcity of engineers in my

department and in that manner I received support. As far as I can remember, this inmate was a Jew. He came from Roumania. Whilst it was prohibited generally to converse with inmates I did have an opportunity to talk to this inmate because he worked in a little engineering office of mine, where I often had dealings with him. I used him for drawings and computations, etc., and I had to make a number of explanations to him in that regard. On one occasion I asked him whether he liked his work at the construction place and whether the inmates preferred working at the construction places to the concentration camp itself. Thereupon the inmate said in reply to my question that the inmates liked the work at the construction site and that that was true in his case particularly, because he found that I offered him a number of alleviations of his lot, particularly since he was able to continue working in his profession. In addition, the opinion was held among the inmates that in Camp IV they had a certain possibility to show their worth and that they could there be used in their profession. Moreover, they felt much freer at the construction places than in the concentration camp. That is approximately the sense of the words as they were pronounced by this inmate.

Q. Then you go on to say in a later paragraph that the labor commitment of the inmates was directed by the labor office of Farbon. How is that to be understood and what do you mean by the expression "directed"?

A. The labor commitment and all the other employment of other workers - for instance, foreign workers - was handled by this office. The firms sent their requests to this labor office according to the urgency of the work to be done. From time to time, urgent orders came which demanded

a larger concentration of workers. In those cases these firms turned to the office and asked for some supplementation to their manpower. This office had to decide whether this request by the firms was justified or not. As far as I know, the priority of the individual constructions was always used as a standard for that decision.

Q. Were the available workers then merely assigned to the various firms?

A. Yes, that is how it was. I can't imagine any other situation.

Q. Finally, I have one more question because in one of the last paragraphs, on page 56 of the document book, you mention a "naturally small output" of the inmates. What did you mean to express by that? What was it you imagined when you said that "naturally they only had a small output of work"?

A. The inmates were mostly employed on masso and had mostly no skill and, of course, they were forced workers. That is what I meant when I said "naturally". Perhaps one or another among them were not interested in bringing about a particularly high output, one must show understanding for that.

Q. Was this naturally small output which, if I understood you correctly, was due to the fact that these were not skilled workers and that they were forced workers, taken into consideration?

A. It was obvious that men who worked constantly at the construction site, for instance, the foremen who themselves had to supervise and who had to state what was to be done at the construction site, whenever they were sufficiently humane took that matter into consideration.

I think that I can state - at least on behalf of my firm - that we always took that matter into consideration and that we never resorted to any measures in order to increase the output which I said was naturally far lower than normal output. Naturally, on our part, endeavors were made to bring about a higher output of work. We tried at least to maintain a reasonable output of work. In my affidavit I explained the case of the foreman Mittmann, the result of which I convinced myself of afterwards. It was this foreman's point of view, as I considered it natural myself, that if one improves the social conditions and the work conditions of these workers, one could also increase the output. He actually did succeed in that.

Q. Was the output from the very beginning fixed at a lower percentage?

A. Yes. In the case of inmates we expected that they should turn out an output of 30% to 50% of normal output. The work by the inmates, however, had to be paid by the hour. They were paid by the firms, through Farben. The firm in turn settled with the concentration camp commander.

Q. That was calculated in that manner, was it?

A. Yes. We, the firms, had to pay for a normal output and, as I said before, we only got 30% to 50% of that output.

Q. But wasn't the individual worker required to bring about a normal output?

A. Well, it was quite natural for us that these persons could not be asked to put out any more work. Most of them had never been manual

workers before.

Q. One concluding question. You were not a member of Farben?

A. No, I was not a member of Farben.

Q. Thank you very much. No further questions.

THE COMMISSIONER: The prosecution may proceed with the cross examination.

Q Mr. Witness, you just testified on direct examination about this Jewish inmate whom you got to know while you were working at I.G. Farben Auschwitz. You stated that he was very satisfied with his condition in I.G. Auschwitz. Now, Mr. Witness, do you know what happened to that Jewish inmate? Was he still well off at I.G. Auschwitz?

A Only after the end of the war, after I returned, I read in the newspapers that human beings were being gassed at Auschwitz.

Q That wasn't the question I asked. The question I asked was, in this particular man whom you got to know what happened to him?

A No, I don't know. I had misunderstood your question before.

Q You don't know whether or not he was gassed, do you?

A No, I don't know that.

Q Now, you testified, Mr. Witness, that civilians couldn't get passes to go into the Concentration Camp Monowitz where the I.G. Farben inmates lived, in order to supervise the food. Now, do you know a man named Wurzinger?

A No, I don't know him. Here again I must state that I don't know that civilians didn't receive that permission. I can only deduce that from the fact that I never received a pass fro that camp IV. The processes were changed. Sometimes we received a pass for one camp and another time a pass for

another. But I never received a pass for Camp 4.

Q Wurzinger was a man in charge of the food, an I.G. Farben man, having a similar function and a similar interest you had. You would know of a man of that type. He was right in Monowitz supervising the food.

DR. GATHER: Objection. Since the witness already that he doesn't know Wurzinger all further questions are quite superfluous.

MR. MINSKOFF: We'll withdraw that question. Now, Mr. Witness, in your affidavit you mentioned that in order to increase the efficiency of the prisoners, the concentration camp inmates, which was naturally a poor one, the I.G. building management envisaged all possible alleviations for them, and special allowances in the form of shortened working hours and so forth were granted. Now, on the same page you give as an illustration a thirty man detail of thirty prisoners for whom you secured daily special meals and you point out in your affidavit that as a result that particular detail, on their own initiative, produced an output which was hardly ever surpassed by a civilian worker. Now, Mr. Witness, if it was possible to increase an output, which you just testified was 30 to 50 percent, merely by giving more food, to one hundred or more than one hundred percent, as you say here, can you state why they didn't give more food to the rest of the inmates?

A Did you finish your question?

Q Yes, have you understood me?

A Yes, for a long time none of us had enough to eat at Auschwitz, especially at first. The German workers complained about the food, particularly about the amount of food they were given. I must say that whenever a large construction site is started, a great number of difficulties have to be surmounted at first. But I can say in good faith that Farben tried to do everything in their power in order to improve the social conditions as far as possible. I know that when we had to go through difficult work processes, for instance pouring of concrete, and so forth--

Q Mr. Witness, now the question that I put to you was able to be answered far more simply than that. I asked if, as you state in your affidavit, it was possible to bring the output of inmates to 100 percent and even more than one hundred percent, merely by giving them more food, how do you account for the fact that throughout, as you testified, their efficiency was only 30 to 50 percent? Is it because they didn't get enough food?

A No. Naturally it was important how these inmates were employed. The case I mentioned in my affidavit was the digging of a trench which was supervised by one foreman. This was a sewerage trench and it lead from Camp 1. This trench had to be dug as quickly as possible. The foreman

supplied one meal per day to these men in addition to what they received from the funds of the figures. He added this amount of food and moreover he treated them very well and that is the only way he could finish that trench in time.

Q And as a result of the good treatment and the extra meal the inmate output became 100 percent or better, isn't that right?

A Yes, the output became normal at any rate.

MR. MINSKOFF: Thank you very much. No further questions.

THE COMMISSIONER: Is there any further redirect-examination?

REDIRECT EXAMINATION

DR. GATHER: Apparently it hadn't been clarified why the work output was fixed at a lower rate than the normal rate. Would you please once more explain that?

MR. MINSKOFF: The prosecution objects to that question. The redirect examination should properly be limited to matters raised on the cross-examination and as to why they put the inmate performance at a lower rate was not inquired into and is not part of the cross-examination. It's merely going back into his affidavit once more.

DR. GATHER: I shall rephrase my question. Witness, you were just interrupted by the prosecution. Won't you please finish the answer which you started with respect to the food that was distributed?

A Would you please put the question to me once more?

DR. GATHER: The question was, how the output in that special detail came up to the normal output.

A I mention that as a result of good treatment and as a result of additional meals which this foreman gave these workers from the funds of the firm, and as a result of other alleviations which are not mentioned in this case, these men managed to come up to a normal rate of output.

DR. GATHER: In that connection I want to ask you this. Was it at all times and everywhere possible to bring about a normal by treating inmates in that way as you have described?

MR. MINSKOFF: Objection.

THE COMMISSIONER: Are you making an objection?

MR. MINSKOFF: Yes sir.

THE COMMISSIONER: State it please.

MR. MINSKOFF: The prosecution objects to the question because it deals with completely other subjects as to whether it's possible for other persons to have also given better food and better treatment. He has testified very clearly both on cross-examination and redirect examination that with better food and with better treatment you may have one hundred percent performance. Now he is going into a new field as to whether he knows if it was possible for other persons to also get better food and better treatment and that is not even part of the direct.

THE COMMISSIONER: I will ask the witness to answer that question as briefly as possible please.

DR. GATHER: You may reply.

A The case I just mentioned occurred at the beginning. That was in 1943. It may even have been at the beginning of 1942. At that time Kapos sometimes were still beating inmates at the construction site. It may have happened that at the time I was not at the site, an inmate was beaten by some employee of my firm -- by some foreman. I mean to say by that, that particularly in the initial stages of the work, a more humane treatment often contributed to bringing about a special output. But of course you can hear the foreman Mittmann about that matter and he will be glad to confirm it.

Q My final question is this. Was this method which you explained with respect to that particular case basically striven for?

A No, it couldn't basically be used because it wasn't easy to obtain additional food from the firms. We could only base ourselves upon what was approved to us by Farben upon request.

THE COMMISSIONER: Don't you think the question has been answered, counsel?

DR. GATHER: Let him finish the last sentence... Go ahead.

WITNESS: In this particular case the foreman himself suggested that these additional foodstuffs be given, apart from Farben.

DR. TRABANDT (Counsel for defendant Duerrfeld): Mr. Commissioner, one more question to which the witness may reply with two words. The whole thing will not take longer than three-quarters of a minute.

THE COMMISSIONER: Have you stated your name for the record?

DR. TRABANDT: Trabandt for Duerrfeld.

THE COMMISSIONER: Very well.

BY DR. TRABANDT:

Q You said that two reasons were decisive for the increase of the output by that special detail. One: Good and decent treatment by the psychologically able foremen; and the increase in rations.

What in your opinion was the main, decisive reason why the output increased? Was it the first, or the latter? Was it the better treatment of the increase in rations?

A It is very difficult for me to reply to that, but I think that both these elements may have been of importance.

Q Thank you very much.

I have no further questions.

THE COMMISSIONER: Further re-cross?

MR. MINSKOFF: No further questions.

THE COMMISSIONER: Any further examination of this witness? ...

The witness is excused. (Witness excused)

Are there any further witnesses?

MR. MINSKOFF: I believe not, sir.

THE COMMISSIONER: This hearing will recess until further notice.

(Commission No. 2 recessed until further notice at 1635 hours,

6 May 1948.)

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UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 39**

**TRANSCRIPTS
(English)**

7-10 May 1948 pp. 13798-14245

Official Transcript of Military Tribunal VI, Case VI
in the matter of the United States of America, against
Carl Krauch, et al, defendants, sitting at Nuernberg,
Germany, on 7 May 1948, Justice Shake presiding.

THE MARSHAL: Persons in the Court Room will please find their seats.
The Honorable, the Judges of Military Tribunal VI. Military Tribunal VI
is now in session. God save the United States of America and this
Honorable Tribunal. There will be order in the Court.

THE PRESIDENT: Make your announcement, Mr. Marshal.

THE MARSHAL: May it please Your Honors, all the defendants are present
save the defendants Haeffliger and Hoerlein absent due to illness and
defendant Schneider excused.

THE PRESIDENT: Are there any announcements from counsel for the
defendants? Anything from the prosecution? The Tribunal will rule on
a few matters. Yesterday morning, when we passed upon objections to the
introduction of documents in the Prosecution's Book 92 containing documents
offered on rebuttal, we discovered that some of the motions had not come
to our attention. We shall now finish the rulings with respect to the
admission of the prosecution's documents in its Book 92. Exhibit 2154,
2172, 2175, 2176, 2177, 2184, 2185, 2186, 2187, 2188, 2189, and 2190, are
stricken from the evidence. Exhibit 2173 is admitted into evidence.

We shall also rule on the objections contained in the transcript of
the proceedings of the commission, in part. The objection found on page
4653 of the English transcript is overruled. The objection on page 5013
of the transcript is sustained. The objection found on pages 5496 to 5498
of the transcript is overruled. The objections on pages 5504 to 5506 of
the transcript is overruled. The objections found on pages 6849, 6851,



and 6852 of the transcript are overruled. The objection on page 6974 of the transcript is sustained. The objection on page 6976 of the transcript is sustained. The objection on page 6977 of the transcript is sustained. The objections on pages 7925 and 7928 of the transcript are each overruled. The objection on page 9294 of the transcript is sustained. The objection on page 9298 of the transcript is overruled, and the objection on pages 9301 and 9302 of the transcript is sustained. The objections on pages 9310, 9340, 9352 and 9353, 9356, 9363 and 9365 are each separately and severally overruled. That is as far as the Tribunal has gone in the examination of the objections on the transcripts of the commissioner. May I say in that connection, gentlemen, that our experience in dealing with the character of the objections that have been called to our attention have led us to conclude that perhaps we ought to say that we believe that it would accomplish the ends of justice if we postponed the rulings on the transcript that have not yet been called to our attention until we come to the consideration of the case on the merits. It imposes a very heavy burden on the Tribunal to go through all of these objections. The character of the objections are such that since they deal with the problem with which the Tribunal must ultimately concern itself, it would perhaps be better for counsel to leave the matter stand as it is, rather than for us to take the time necessary to examine all of these objections and leave you gentlemen in a state of uncertainty as to what the rulings may be while you are preparing your briefs and your arguments. We shall complete the rulings on the objections that have already been specifically called to our attention by counsel for the defense, at the

next session of the Tribunal, we hope — we think we can do that. But as to the objections contained in the record currently and subsequent to these, we believe, gentlemen, that if you bear in mind the fact that the Court will pass on those objections in considering the case on its merits rather than to leave you in a state of uncertainty until such time as you are preparing briefs and arguments, perhaps it would serve your ends as well and certainly relieve us of a very heavy burden of spending the time in going over those matters in the late stages of this trial. That will be our disposition in regard to that matter. However, as to those objections which have been called to our attention by Dr. Dix in the memorandum he filed, we will complete that task and rule specifically on each of them. Perhaps at the next session we shall do that. Now, one thing further for the clarification of the record. The Tribunal has formally pending before it a motion made on behalf of all or practically all of the defendants, dated 17 December 1947, asking for a finding of not guilty. Also another motion was filed on 6 January 1948 of similar import and presented by Dr. Aschenauer on behalf of the defendant Gattineau. And another motion of like character was filed on 11 December 1947 by Dr. Lummert on behalf of the defendant Kuchne. We have already indicated to counsel informally and in chambers the fact that we did not expect to rule on those motions before the conclusion of the trial. But nothing has been said on the record. The Tribunal now states to counsel that it can not assume the burden of searching the evidence to pass upon the merits of those motions before the final determination of the case, and that is not the purpose or the intention of the Tribunal to rule on those

COURT VI CASE VI
7 May 48-1-4-H-AEH-Mills (Ramler)

motions as such, but we will consider them along with the briefs and arguments in the final determination of the case.

Two additional documents have been delivered to the Tribunal. We have now a supplement to document Book 12 of Dr. Ilgner, A, and B. If counsel for the defendant Ilgner wishes to introduce that document in evidence we will be glad to receive it at this time.

DR. BACHEL (For Dr. Ilgner): Your Honors, as far as I have learned, the supplement document books 12A and 12B are not available at this time. If it is all right with the Tribunal I would prefer to submit this document, together with the document books on Monday.

THE PRESIDENT: Very well. We also have some additional documents offered on behalf of the defendant Kuehne -- Document Number 119. The document itself indicates that this document has already been introduced in evidence as Exhibit 119, but we should like to verify that so we can mark it if that is correct. We assume that this may be a document that we can mark it if that is correct. We assume that this may be a document that was not presently available when it was offered in evidence and that the copy furnished us is simply in compliance with the promise of counsel.

DR. HATH (For Dr. Kuehne): I must apologise, Your Honors, because I have to discuss this matter with my assistant first and I shall then clarify this matter with respect to all documents.

THE PRESIDENT: This matter will likewise be passed until the next session.

DR. SCHUBERT (For Dr. Buergin): Your Honors, with reference to the ruling of the Tribunal concerning the documents of rebuttal Document Book 92, I should like to put a question. The German translation stated

that a Document 2123 was admitted. This number, however, is not contained in that document book. We have the number 2173 and I think that the Tribunal referred to that number.

MR. SPRECHER: That was Exhibit 2173.

THE PRESIDENT: 2173 -- Exhibit 2173 was admitted into evidence.

DR. SCHUBERT: Thank you very much. That will clarify this matter.

DR. RUDOLF DIX: (for Schmits) Two small matters, Your Honors. First I should now like to submit to the Secretary General the list of the period of time the various defendants were in custody. This list is made for all defendants and I might state that with respect to some defendants, and particularly with respect to mine, the camps, as such, were not mentioned, but only the period of custody. My client was in twelve camps and today no longer remembers what these camps were and he doesn't want to make a mistake in that connection. I assumed that the Tribunal was mostly interested in the period of time in custody. I shall now hand the list to the Secretary.

THE PRESIDENT: Has this list been concurred in by the prosecution?

MR. SPRECHER: Mr. President, we haven't had the pleasure of seeing it.

THE PRESIDENT: Very well. After all, this list should be on the record and not merely a document filed and if counsel for the prosecution will check it and advise us as to whether or not it may be accepted as a stipulation, we shall put it on the record as a part of the evidence in the case, rather than as a document filed. This is a matter that should not be overlooked because it is meeting a request of the Tribunal and we will ask you, Mr. Prosecutor, as speedily as you can, to ask some

one of your staff to check it and advise the Tribunal whether or not you can agree to it.

DR. DIX: The Tribunal may remember my oral motion with respect to Prosecution's Exhibit 334. The Tribunal asked me to lay down my motion in writing. I did that. Yesterday I handed to the prosecution a copy of my written motion. I don't think it will be necessary to read the entire motion, but I shall confine myself to stating the following. Together with this motion I am handing in the verbatim minutes of 11 September 1945 a copy of which I have before me. The interrogator says, and I quote: "I call your attention to Ordinance Number 1, Article 2, Section 33 as issued by the Military Government." (Handing a copy of the ordinance to the witness who reads the indicated section).

A. Yes, I have read it. Personally, it is my view that if the wording of this record is recognized by the prosecution, an examination of these two interrogators, Lt. Col. Tilley and Lawrence Linville, will be superfluous. I therefore suggested to Mr. Sprecher that he should try to convince himself of the correctness of this wording by looking at the original which is Frankfurt, and we could then stipulate as to the contents. I think that in this manner we can clarify this situation and it will not be necessary to call these witnesses who are now either in Great Britain or in the United States. I shall now hand this motion to the Secretary General. That is all.

MR. SPRECHER: Mr. President, we have answered from the German copy which Dr. Dix gave you and I will hand this answer to the Secretary General at the present time. We believe that there's considerable misconception concerning the nature of the ruling with respect to the collateral matter. With respect to this interrogation, which we never had and which we never considered, we will attempt to find out either from a copy which may be in Frankfurt whether that copy is a proper copy and if it is, we will be very glad to stipulate.

THE PRESIDENT: Very well. Now, hand your documents to the Secretary, and Mr. Secretary, because of the character of this matter, the Tribunal should like to get the record closed on it as speedily as possible and will you see that we are furnished promptly with English copies and the translations of the German copies of the document?

JUDGE HEBERT: Are you ready to proceed now, Dr. Silcher?

DR. SILCHER: Your Honor, I should like to present my evidence from this spot for technical reasons. For technical reasons I shall submit my evidence from this spot here. I should like to suggest to you, Your Honor, that you move toward your left in order that you may be able to observe the pictures on the screen a little better. I would also ask that the defendants be permitted to do the same. Would the lights be turned out?

Before presenting the actual basic information, I should like to offer Knieriem document 34, Defense Exhibit 173, which is the chart about the responsibility of the Vorstand. This chart needs some explanation. The upper part of the chart shows the development of the turnover, as well as the staff, from 1926 until 1944. The turnover increases to about a three-

fold amount from one billion up to approximately three billions. The staff increases itself more to than double from 94 thousand to about 190 thousand. The Vorstand does not increase accordingly but, on the contrary is reduced from seventy-nine to twenty-two. That is a little more than one-quarter. The extent and the burden of the responsibility of the individual Vorstand members increased during that time. This, it has been attempted to reproduce on this chart. How much bigger the responsibilities became is shown by the lower half of the chart. The turnover with respect to each member of the Vorstand increased from thirteen million in 1926 to about one hundred twenty-six million in 1943. That is about a ten-fold increase. The staff falling on each Vorstand member goes from one thousand one hundred eighty seven to eight thousand five hundred eighty six. That is more than seven-fold. It is the prosecution's assumption that crimes and abuses occurred in the Farben enterprise. The prosecution furthermore says that the Vorstand members now sitting in the dock know of them or, if they had investigated them they would have come to their notice. It is the defense's theory that there were no crimes or abuses but even if there had been any, the Vorstand members did not notice them. According to defense's theory they had no obligation to investigate and notice any such matters, because the Vorstand members were fully occupied with their own work and responsibility. For that reason, they could only concern themselves with other spheres of work to a very limited extent. The primary duty of each of the Vorstand members, according to the defense's theory, was to deal with his own work. That was to be illustrated by this chart.

Next please.

In Document 2 of the basic information before you, before the index and under the cover page, there is an index which is the English translation of page 72 of the silver booklet which was submitted on the 12th of January as the first volume of basic information. The English translation, however, was left out by accident.

We shall now turn to Document 2, Exhibit 174, which is a survey of the balance sheets from 1939 to 1944. It is a continuation of the balance survey which ended with the year 1938, on pages 70 and 71 of the silver leaflet. This is to serve as the completion of the picture. It is drawn up in the same way. There are different English expressions in that document but that is due to the different translators' working on the translation. This discrepancy between English expressions can often be found in that book although we are only concerned with the same things and the same terms in German.

The development of Farben during that time, which is expressed in its balance sheets, is significant, and is confirmed by an affidavit of Hermann Walter.

Document 3, Exhibit 175, is a chart of the development of the share capital of Farben from its foundation in 1925 until 1945, the end. This is partly identical with the statistics on page 61 of the silver booklet. However, it is arranged differently and continued beyond 1938. The first figure on that page contains a typographical error. It should read 641,600,000. In the document book, it is just 641,000,000. This chart was also confirmed by an affidavit which is not contained in the book. However

this affidavit is contained in the copy of the Secretary General. For technical reasons I think it is important to read this affidavit into the record. It is my own affidavit with the following wording, and I quote:

"On the basis of my knowledge of these matters as a result of years of work with Farben, and as a result of an investigation of contemporaneous authentic material of Farben, I confirm that the above chart shows the development of the share capital of Farben from the time of its foundation in 1925 until the German collapse in 1945. This is a correct survey of this development."

Document 4 will be Exhibit 176. This is a chart concerning the total turnover of Farben from 1926 to 1944. It shows what the expenditures were. Together with that, we have the chart, Document 5, Exhibit 177. It is being projected here. The English expressions can be seen on the chart and in many ways they are different from the expressions used in the original chart. We are always concerned with the same items and the same German expressions. I should like to make one special remark. With respect to Chart #3, there the expression is used "allowances for reserves". I was told that this expression was not in common usage. We are concerned with "surplus" or "excess depreciations". The upper part shows the figures and the lower part shows the break-down of the various expenditures according to percentages. The upper part shows the ups and downs of the development according to the business cycles. I should like to point out some characteristic symptom. The voluntary social expenditures increase from 1926 with thirty-five million to one hundred

13808.

ninety million in 1944. During the time of the crisis, in the middle of the chart, they hardly decrease. It is also significant to note the preservation of capital substance which is shown by expenditures for research, please note particularly they started in 1926 with eighty-two millions. In 1927 they reached their highest point, one hundred sixty-one millions. In the crisis of 1932 they decreased down to forty-two millions and they gradually reached one hundred millions approximately. This shows that this vital core of Farben was kept going and one can see not the slightest connection with rearmament or even preparations for war. Taxes and other public expenditures increased from 1926, forty millions, up to four hundred ninety-six millions in 1943. That is more than a ten-fold increase. The slight decrease in 1944 was due to the bomb damage and the decrease in production as a result. The dividends of the shareholders do not increase in the same proportions as the development of the share capital which can be seen from Document 3. Per head, it gradually decreases. The administrative expenses - and I must state that it is written here "administrative expenses" while in the chart it is "remuneration of administration". I think that the latter expression shows more accurately with what we are here concerned. They reached their peak in 1927 with approximately eighteen millions. They gradually decrease down to 4.6 millions in 1943 which is the biggest year according to the turnover. In 1944 it goes down to 3.5 millions. In that connection it should be noted that this item also includes the Aufsichtsrat remunerations. One can interpret that in different ways. One might perhaps say that this lack of personal profit sense on the part of busi-

ness men is not a very positive sign. At any rate, however, one thing becomes clearly apparent. Whatever one might accuse the Vorstand members of, when they are indicted today, one cannot accuse them of motives of personal enrichment. They never endeavored that and they never achieved it.

The political contributions can be found in Exhibit 176 on the chart in the footnote. In the Central Bookkeeping Department there were various items to cover them. As they are listed here they include the Winter Relief Work and the Adolf Hitler contribution of German economy. Although these two contributions are included here, they are so slight that they could not be graphically demonstrated in this chart books because they are too small in proportion. For that reason, you have a chart on the side and a dotted line to which I am pointing now. Naturally, these are still sums amounting to millions which, summarized into one sum covering all those years, amount to a considerable figure. These contributions, however, must be considered in proportion with the sums handled by Farben. If the percentages at the bottom of the chart are considered, I should like to point out the following. The taxes.....

JUDGE MORRIS: Dr. Silcher, would you mind pausing while I change my seat? I find some difficulty in following your chart.

DR. SILCHER: The taxes in 1926 amount to 3.9% and increase in 1941 to 16.6%, and they then continue in that proportion. The voluntary social contributions in 1926 amount to 3.4% and from 1933 until 1942 are approximately 5%. In 1944 they increase to 7.4%. The dividends in 1926 amount to 5.4%. In 1927 there is a peak of 7.5%. In 1931 there is a gradual decrease down to 2.6% in 1943. The administrative remunerations in 1926 were 1.5%. In 1942/1943 only 0.1 and 0.2%. The political contributions, apart from the first year when the special circumstance occurred which were often discussed here, never amounted to more than 0.24%. After 1936 they were between 0.1% and 0.2%. It is characteristic to compare a num-

ber of years in themselves. In the last peace time year, 1938, the taxes amounted to 13.2%. Research 5.7%. Voluntary social contributions were 5.7%. Dividends 3.3%. Administrative remunerations 0.3%. Political contributions 0.18%. In 1943 the proportion is quite similar. Taxes 15.1%. Research 3.5%. Voluntary social contributions 5.8%. Dividends 2.6%. Administrative remunerations even smaller, 0.3%. Political contributions 0.15%. With respect to the political contributions, Winter Relief Contributions and Adolf Hitler contributions, because of their compulsory nature which actually converted them into taxes, I was confronted with the choice of leaving them out. I decided not to leave them out, but we are shown by Walter's affidavit that the predominant part of these political contributions mentioned here fall into the category of these two items in 1933 amounted to approximately 50% of all political contributions. It speedily increased thereafter and, in 1936, it amounted to more than 80% of the total sum. Without these two items, the political contributions would not be 0.17% of the entire turnover, but would only be 0.03%. The share then increases up evermore to 85% and even to 95% of the total sum. In 1944, for instance, it has risen to 95%. That is to say, of 3.44 million, the share is 3.27 million. That means that the share of the actual political contributions - that is, excepting Winter Relief and Adolf Hitler contributions, amounts to not 0.13% as here but 0.006% of the total expenditure. This is how the defense illustrates the alliance with Hitler. This entire chart is confirmed by an affidavit of Hermann Walter.

Next, please.

Document 6, Exhibit 178, is an affidavit regarding the total turnover of Farbon, from 1926 to 1944, divided according to foreign and domestic turnover. Connected with it is the chart - Document 7, Exhibit 179. This chart shows the tenacious maintenance of exports despite of the over-increasing difficulties of world trade as a result of the nationalist tendencies which increased all over, the world, the currency devaluations and the boycott of German goods. That was discussed when talking about the subject matter of camouflage. In 1929, when there was a boom, the export borders on the six hundred million line. In the crisis of 1932 it decreases to a little over four hundred millions and then keeps on a regular level between four and five hundred millions. It must be considered in that connection that after 1938 foreign countries became in part domestic countries from a statistical point of view. That in particular applies to Austria, Sudetenland and Warthogau.

Secondly, it is to be shown that exports constituted a large share in the total turnover just before the beginning of the Third Reich. The chart demonstrates that it was between 40 and 47 per cent. When the domestic boom started, the percentage naturally decreased, but still remained on a level of between 25 and 40 per cent. These are the official figures of the Central Bookkeeping Department on the basis of which the chart was drawn up. An important correction has to be made for an economic evaluation of that chart. The turnover of nitrogen fertilizers is shown in these statistics as domestic turnover because the entire sale of that product, including the foreign sales, had to go through the nitrogen syndicate, and for that reason it appears statistically as deliveries to the syndicate, in other words, domestic sales.

Economically speaking, however, one would also have to consider the foreign sales of the nitrogen syndicate and one would have to list them among other exports of Farben. The Walter affidavit, Exhibit 130 refers to that. If these figures are taken as a basis, the percentage of exports even during the Third Reich up until the war remains 32 to 42 per cent, which is still very high. Before the beginning of the Third Reich the percentage of foreign sales amounts to 50 to 57 per cent. It is the theory of the Defense that an enterprise which was based to such a large extent on international trade would not support an autarchy, power politics, and certainly would not need, or even desire, a war. Such an enterprise would only work for international cooperation, peace, and peace again. Whatever may be said with respect to the heads of this enterprise, sitting in the defendants' box today, one thing cannot be said of them, and that

is lack of business intelligence.

It is the Defense's theory that these men could not have been as stupid as to want a war. That is to be demonstrated by this chart. The other compilations on pages 13 to 16 of the document book show the break-down of the turnover into those Spartes which, apart from nitrogen, were the main bearers of the export business. For instance, on page 13 you find the dyestuffs field. There, exports up to 1933 amount to 70 to 77 per cent. Until the war it remained at 57 to 68 per cent. Even in the case of those chemicals where export trade was not pursued so intensively, the foreign share up to 1933 remained at around 40 per cent.

In the case of pharmaceuticals, that's on page 15, the percentage of foreign sales up to 1933 amounts to 66 to 79 per cent, and then remains on the level of 67 to 70 per cent. In the case of photographic goods, the foreign share up to 1933 amounts to 50 to 58 per cent, and then remains on a level between 39 and 50 percent. These percentages must be considered when discussing the alleged espionage network, the New Order, and plunder and spoliation.

I shall go in that a little later. Would you remove the chart, turn on the lights and take away the screen?

These statements are confirmed by Exhibit 181, Document 9. There we have the division into countries and export categories. The four years represented here, are: 1926 as the first year, with statistics compiled by Farben, 1929, the year of the boom; 1932, the lowest level of the crisis; and 1938, the last peacetime year. In addition, there is Document 10, Exhibit 182, which is a map of the world with the total exports of Farben and a listing of those places where Farben was represented. This,

Farben does not claim to be a geographically correct; that is not its purpose. The little pillars refer to the turnover during those four years I mentioned, starting from the left and going towards the right. This map is to show that Farben's field of activity extended throughout the entire world. All countries of the world were markets for Farben. Therefore, we see here the foreign agencies of Farben particularly in the dyestuffs, the pharmaceutical and the photographic field which today are being accused as representing an espionage network.

You have to have market observations for an export like this, and you have to have market reports. It is the theory of the Defense that it was natural and absolutely essential in that connection to have research and to have reports. As to the so-called New Order, the European countries are of particular interest. These European countries had always been a field of interest and activity of Farben. They were always subject to normal, legal business considerations and dispositions. As to the charge of plunder and spoliation, those countries and Sparte are interesting where charges of plunder and spoliation were made in particular, namely, dyestuffs in Poland and dyestuffs and pharmaceuticals in France. This shows the extent of the normal business interest and business activity as it has always been. Farben did not conquer anything there; they were already there before.

However one may judge these matters individually, one should never overlook this factor. This is confirmed by an affidavit of Hermann Walter. Document No. 11 is not contained in the basic information volume itself. It is contained in von Meer's documents. It is before the Tribunal. It

shows the break-down according to old and new fields of production. This is a different chart from the one here and has nothing to do with it. The chart which is before you now shows that the turnover in 1939 in the old fields of production was 496 millions, that is, only as much as in 1929 when there was the peak of the boom. According to the Defense's theory, it is quite natural that new production creates new sales fields which have nothing to do with the old business and, therefore, do not go on its account. It is merely added to that. That, in the final analysis, is the nature and the natural reward of industrial progress. It is the Defense's theory that this increase in the turnover is not a symptom for the preparation for an aggressive war, neither if we look at it retrospectively today nor in the sense that this observation could have made subjectively at the time by the heads of this enterprise.

Document 12, Exhibit 183, is the beginning of a new category. It compares Farben with other industries and other firms; a frame is necessary for the entire picture. Farben was not alone in the world, and I have tried to show you the entire world by giving you a few documents, Document 12 to 15, Exhibit 183 to Exhibit 186, to which document 16, Exhibit 187 belongs, which is here in front of you as a chart, shows Farben's relationship to the entire German industry and to the other German chemical industries. This is done in regard to 4 aspects: investment capital, total turnover, export turnover and number of staff. I must point out that this chart in front of you and the chart in your document books indicate by their headings that these are figures pertaining to Germany, that is, entire Germany, but we are concerned only with industry, that is, we are not mentioning agriculture, transportation, the crafts, etc.

The industry constituted about 40 per cent of the entire economy, which is a rather rough estimate. Invested capital was the share capital which was actually expended paid in and looked as well as the amounts of outstanding loans. That is contained in Exhibit 183. It will be more descriptive if you use the chart in the document books rather than using the chart on the wall. The percentages of the chemical industry are shown in their relationship to the entire German industry. Of the percentages contained in the column "Farben" the upper portion depicts the relationship to the entire Farben industry and the lower half depicts the relationship to the German chemical industry. As a result, it is shown in this respect to Farben, within the entire German industry, amounted to appro-

ximately 4 to 5 per cent; within the chemical industry around 45 to 50 per cent.

The share in percentages from 1932 to 1938 decreases, that is particularly during that Four Year Plan boom, which was partly contingent upon rearmament. It decreases from a little above 48 per cent down to below 45 per cent. This shows that, contrary to the Prosecution's theory, it was not Farben who was the main bearer of the Four Year Plan and rearmament; it was even behind the rest of the chemical industry. In other words, it had a lesser share in it. This is shown even better when considering the entire turnover, Exhibit 184. I think that you will understand it better if you will look at your books and consider the figures. Here, the entire chemical industry is lagging far behind the rest of German industry; its share during those years decreases from 8.29 per cent down to 8.04 per cent. The share of Farben decreases to an even greater extent. In proportion to the entire industry, it decreases from 2.61 per cent to 2.03 per cent. In proportion to chemistry it decreases from 31.85 per cent to 25.30 per cent. This shows even more clearly that Farben benefited less from the Four Year Plan and the rearmament and other industry and the rest of chemical industry. It is that Farben cannot be considered as being their main bearer.

Document 14, Exhibit 185, shows the intensity of Farben's exports in comparison with other industries. This is shown in confirmation of what has previously been demonstrated when considering Farben alone. I must point out a mistake in the English book. The total German export in 1932 was

not 5,5 billions but 5.7 billions. In other words, it should not be 5,500 but 5,700. This is repeated correctly in the German books.

Within the entire German exports the share of Farben increases from 1926 to 1938 from 4 per cent to approximately 8 per cent; within chemistry from approximately 39 per cent to over 53 per cent. Over half of the German chemical export was done by Farben. I remind you that from 1932 until 1938, in the entire turnover, Farben's share within chemistry decreases from 32 per cent to approximately 25 per cent. In exports the share increases from 45 to 53 per cent. This shows that Farben exported increasingly more and was always more interested in international trade than the rest of German chemistry. It increased its exports from 1932 until 1938 whereas the export of other chemistry is about 120 millions behind.

The domestic boom which was promoted by the Four Year Plan was of benefit to most of the others. Whereas, Farben tried to endeavor to export, which was a more difficult task, and while Farben tried to retain its international connections.

Here again a comparison has been made with the chemical world exports that is, the world trade in chemical products. After the crisis in 1932 it does not completely recover. It remains far behind the year of the boom in 1929. In 1929, 5.4 billions; 1938 only 3.1 billions. Farben also remains stronger in its export in comparison with the chemical exports of the entire world. In 1929 the share of Farben is approximately 10 per cent. In 1938 more than 13½ per cent. That is, in proportion to the entire world, it is shown how Farben promoted international trade and international

7 May-M-FL-6-4-Schwab (Int. Ramler)
Court No. VI, Case VI

business connections.

I think, Your Honor, this would be a convenient time to break off
for our recess.

THE PRESIDENT: The Tribunal will rise for its morning recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. SILCHER: We now come to the last part of these charts, Document 15, Exhibit 186, dealing with the number of employees. This again shows that I.G. Farben was not outstanding under the Four Year Plan boom. The relationship to all of German industry in this connection was originally 1.76 per cent, and in 1932 to 1938, remained approximately at 1.5 per cent.

In this relationship to the rest of the chemical industry too, in the year 1932 to 1938, we have only minor changes in the decimal positions behind 29 per cent. Now it is interesting to observe the divergence of this share of Farben in various respects and that can be seen especially well by the charts. As to invested capital, the proportion of Farben as compared with the entire German industry, in 1929, is 4.01 per cent. Its turnover is only 2.8 per cent, and the number of employees, 1.36 per cent.

The big chemical industry is very intensive in its capital. It demands large investments. One must remember this when considering the investments of Farben since 1933, which the Prosecution considers so significant; in addition this results in the doctrine that big chemical industry, with the modern syntheses which represent the most enormous progress of mankind during the last decades, requires enormous capital, and consequently large enterprises. That is a law of development.

These charts are to illustrate this fact, but above all they show the relatively modest share of Farben in all of German industry.

One often has a wrong impression of this share. All of these facts are confirmed by an affidavit of Erich Piwowarczyk.

Document 17, Exhibit 188, goes up to pages 44a and 44b; Document 18, Exhibit 189 is the chart which we now have on the wall. These documents compare Farben to other world firms, Dupont, Standard Oil of New Jersey, General Motors, United States Steel, and ICI, - Imperial Chemical Industry, in various respects: Working capital, turnover, export turnover, social contributions, staff and a few other aspects such as the Document Books show.

Such comparisons are problematic in several aspects, First of all, we are dealing with different forms of currency. Everything is calculated in dollars here, at a rate of One dollar to Two Marks fifty; 40 cents for the Mark. That was approximately the parity after the devaluation of the dollar which I believe was in 1934 or 1935. It did not seem right to me to take a different rate for the time before that and after that, since it was only the exchange value of the currency that was changed. The domestic price level was not essentially affected, and then the new parity seemed to me better than the earlier one, because it was closer to the domestic purchase price of the respective currencies.

It was always an old rule of thumb that one had to calculate the dollar at Two Marks in considering the standard of living. Consequently in the ICI figures, of course, a rate of Four dollars 90 to the pound sterling was taken. That was the average rate after the devaluation on both sides. That corresponds to the rate of exchange between the Mark and the Pound after the devaluation of the Pound.

Then there are differences in the methods of balance sheets. In the United States a consolidated balance sheet for the concern is used and that has been adopted here, while in Germany that is virtually unknown.

JUDGE MORRIS: Dr. Silcher, in your illustration of Standard Oil, does that mean all of the various Standard Oil Companies, or just one, like for instance, Standard Oil of New Jersey, or of Ohio, or which Standard Oil Company have you charted?

DR. SILCHER: Only Standard Oil of New Jersey, with its subsidiaries, however. So far as I am informed, the various Standard Oil Companies are not in general subsidiaries and parent firms of one another.

Also in the United States it is customary to make a public accounting of funds, usually in the form of surplus, while in Germany, the method of so-called hidden reserves is customary, which do not appear in the balance sheets. That is an interesting distinction which can be long debated and over which one can almost philosophize.

Then, of course, the publicity in the various firms differs greatly. That is why some figures are missing from other firms, while for Farben, all figures have been used. Earlier, it is true, Farben was not especial-

ly distinguished by its love of publicity.

In spite of the difficulties of such comparisons, I believe that the comparisons that I have on these charts are essentially correct, and so interesting that I did not want to do without them.

Now as to the details of the charts themselves. The chart in your document book is divided by firms. That is page 44a and then, according to groups, that is 44b. They both deal with the same figures, but finding out of comparative factors, is easier in one case by one chart, and in another case by another. For a person interested in such things, and a person who knows how to read such charts, they are a mine of information for the most varied and interesting facts. This is not the place for that, but I believe that these relations are interesting. In part, of course, the differences can be explained by the differences in the field of the firms which are being compared of those, only Dupont and ICI are chemical firms and the relationship of turnover and dividends is interesting, which is best seen from the chart of page 44a. In Farben, this proportion is in general only a fraction of the proportion in the American firms. There the stockholder has a much higher share of the total income than in Farben. Another thing that is interesting is the proportion of social contributions to turnover that is in proportion to the total income and the total expenditures.

Here, and only here, Farben has a much higher share than all of the others. This becomes especially clear in comparing social contributions

with dividends. In Farben social contributions are, as a rule, much higher than the dividends, while in the other firms, on the contrary, the dividends are much higher than the social contributions, especially in good business years. This shows the definite social interest of Farben. Farben is far ahead also with respect to the sum of its social activities. That can be best seen on page 44b, the second chart.

In dividends, on the other hand, Farben is in all years by far the lowest, especially after 1936, during the 4-Year Plan and the war boom in which, according to the Prosecution, Farben participated to strongly and furthered it.

I admit, however, that in considering social contributions, wages must also be considered. The general level of wages are much higher in the United States than in Germany.

Now we can look at the chart which shows conditions in the years 1926 to 1944. At the left we have the working capital. This is the stock capital expended, the reserves and outstanding loans.

Then the second picture is of the total turnover, third the export turnover, and finally, the number of employees.

The figures as to the number of employees are perhaps of special interest because here there is no problem of comparing different currencies or the method of accounting, no hidden reserves. There are two impressions which meet the eye, first, in the World firms Farben has a definitely modest place. It is not the gigantic enterprise smothering everything else as it is presented.

Only at exports is it first at times. This, once more, confirms the especially great world affiliations and exports of Farben. In the working capital, it is far below the others, changing from last and third from last, with Dupont and ICI. The highest is United States Steel in this respect, at times more than five times as big.

In the total turnover Farben is generally second from last, United States steel being at the highest place, at first at that time it was about four times as big as Farben. Later, General Motors assumes first place, again about four times as big as Farben.

With respect to the staff, Farben holds third place. First place is in the beginning held by United States Steel, approximately three times as big; later General Motors again, $2\frac{1}{2}$ times as big as Farben.

The second striking impression is the remarkable similarity of the curves. We see the increase up to 1929, then the drop in the depression with the depth at about 1932; then another rise higher than the boom of 1929.

In the American firms we have another drop in 1938, but this is soon more than compensated for. I have just shown this on the total turnover. The same picture is repeated essentially in the export turnover and especially in the export turnover and especially in the number of employees. Especially interesting, of course, are the chemical firms, duPont and I.C.I. and the similarity is especially striking here. Both in working capital and total turnover; although we have no figures for I.C.I. here we can only compare Farben and duPont, and again in the Staff. Especially in the development of the Staff the parallel between Farben and I.C.I. is almost ridiculously exact but also in the case of duPont and General Motors the parallel is very strong. In the case of General Motors the changes are greater in both directions because it is well known that a machine industry, and specifically the automobile industry, is much more effected by economic trends. All these facts about the firms are confirmed by an affidavit by Erich Piwowarczyk. Document 19, Exhibit 190, shows the development of the national income in the United States and Germany in the years 1929 to 1941. Unfortunately we had statistics only for those years. Document 20, Exhibit 191 is the chart which is being projected. Here again we have the same comparison of the German national income to the dollar which is on the basis of 40 cents to the Mark, the same basis as used previously in the comparison of the firms and again for the same reasons. The change as compared with the preceding year is given in percentages here on the wall and in the document book. This chart shows a very striking parallel of developments in the two countries, from the height of the boom in 1929, the recession until 1932, then the rise until

1941; in the United States again the short recession in 1938 which was compensated for by 1939. The total change of the national income in 1941 as compared to 1929 in the United States was an increase of 28.62 per cent; in Germany 28.71 percent, almost exactly the same. This and the previous comparison of firms confirm the defense theory that objective developments in Germany were not decisively influenced by the Four Year Plan and rearmament, but primarily represent general world economic development. At least, according to the defense theory, this is true of the subjective circumstances. This is how the defendants in the dock saw the situation at the time. Now, it is the theory of the defense that these observations justify no suspicion of the planning for a war of aggression. This was the last chart.

The next defense Exhibit No. 276 will be document 27, a document which will be ready today or tomorrow I believe. This is an affidavit of Georg Belz certifying that all these charts are correct and they are listed in the affidavit.

THE PRESIDENT: Will you please repeat the document and the exhibit number?

DR. SILCHER: Document 27, Exhibit 276.

THE PRESIDENT: Thank you.

DR. SILCHER: The next basic information document 21 is only in the index, not in the book. It is in Document Book Schneider as indicated in the index. This is an affidavit of Albrecht Weiss about social-political achievements of Farben. It shows Farben as an employer. Documents 22 and 23 are not in the book either as the index indicates they are in von Knieriem Book I. These are patent surveys to give an impression of the

13829

situation with regard to patents in Farben and Farben's activity in the field of inventions which, of course, is reflected by patents. These sober statistics show that from Farben's laboratories there was an uninterrupted stream of inventions which went into the whole world. Farben did not egotistically hold on to its inventions but sent them out into the world. Year after year thousands of patents were issued and year after year thousands of patents went out into the world. The final number of Farben patents was about 40,000.

This takes us on to Document 24, basic information, which is to be Exhibit 277, a supplementary document which is already available in German. The English translation should be ready today or tomorrow. This is a report of some of the technical Vorstand members about examples of technical and scientific pioneering work done by Farben. Here we are shown as a whole what we have seen so far only in isolated examples. Here these men have summed up the life work of their predecessors and their own. What I have shown so far have been essentially figures. This shows the real living I.G. Farben. I must say that although I have been familiar with all this since over a decade I read this sober, objective presentation of the facts made by these gentlemen with great excitement. This report shows and this impression is forced upon one, even though it was not written for this purpose, that all this pioneer work in which the Prosecution largely sees planning and preparation for war of aggression was a clear organic development, arising solely from the urge of the research worker, the technical plant engineer and the industrialist to solve the secrets of nature and make them serve the technical progress of humanity. I want to urge you to read this report very carefully. At the end of this report some

international distinctions are listed which were bestowed on Farben: the nine Grands Prix that Farben was awarded in the Paris World Exposition of 1937 for products and processes and two Nobel prizes for chemistry which were given to Farben gentlemen for work done in Farben.

The members of the Vorstand did not list a third Nobel prize, the one which Professor Haber was awarded for the nitrogen synthesis. It might be included here because it was Farben who developed and put into execution this process and Professor Haber was a member of the Aufsichtsrat. I should like to emphasize that three of these Grands Prix and two of these three Nobel prizes were awarded for products and processes which the Prosecution has cited in its charge of planning and preparation for a war of aggression, namely, the two Nobel prizes for the synthesis of nitrogen from the air and gasoline synthesis from coal. Gasoline synthesis from coal was also awarded a Grand Prix and in 1937 Grands Prix were also awarded to Buna and two light metals. That was in 1937, four years after the Third Reich had begun. From the enormous and extensive peace time production program of Farben I should like, in conclusion, to emphasize from a special point of view one special group, namely, products for building and equipping houses.

I shall show you as No. 25 of the basic information, but without offering it as a defense exhibit, a completely equipped model house in which almost everything is composed of Farben products. In the document books there are some photographs of this model house which will be turned over to the Secretary-General as part of Document 25. I believe there are three copies for the Tribunal. I should like to give these photographs Exhibit No. 278 for identification, also Document 26, Exhibit No. 279 for identification. This is the legend and is the last page in the document book. The parts of the model have numbers, 45 of them, and in this legend one can read the names of the products. The Prosecution has tried

to show in the course of this trial that Farben was an instrument of destruction. This house which is standing as a model in the City of bombed Nurnberg is to illustrate what an instrument of peaceful building Farben was and could be today. If you like you may study this house. Perhaps you may consult experts. As experts I might recommend children of an age when they still like to play with dolls houses. I believe I must give you some instructions. First of all, the top and bottom part of the house are not fastened together but the top can be removed. When I first saw the model house and looked at it it fell off. It survived this accident but I do not believe it would survive a second one. Then the pieces of equipment are firmly attached and certain dismantling would have to be done before it could be used.

This concludes the presentation of the basic information.

JUDGE HERBERT: Dr. Nath, are you ready to proceed as soon as the court room is in order?

THE PRESIDENT: The Tribunal will rise for about five minutes or until the witness stand can be made useable and then we will allow Dr. Nath to continue. The Tribunal will rise.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. SPRECHER: Mr. President, Dr. Nath has been talking to me about a matter which is involved in the two exhibits which have just been passed up to Your Honors. These are two exhibits which were used during the cross-examination of the defense affiants who were the authors of those two affidavits. If you will turn to the first exhibit, Prosecution's Exhibit 2332, NI 3763, Dr. Nath and I have stipulated that only those parts of this affidavit shall be considered in evidence which are not stricken in pencil. That is to say, if you go over to page 2 of this affidavit where it begins with "Reports that were turned in," the affidavit is only evidence from that point on, up to the top of page 3 of the mimeographed copy, which is in the first line, where it says: "was information on economic and political subjects."

THE PRESIDENT: May I inquire, counsel, if you have furnished for the Secretary General a copy of this exhibit so marked?

MR. SPRECHER: The exhibit which the Secretary General has, is in German, naturally.

THE PRESIDENT: May I suggest, just so that there will be no confusion that you just put an extra copy of the English translation with it marked as you have indicated.

MR. SPRECHER: I will give him my copy, sir. Then, if you will turn to Prosecution's Exhibit 2351, Dr. Nath and I have similarly stipulated that merely the two introductory sentences of paragraph 1 and then paragraph 7 at the end shall be considered in evidence. The balance of these affidavits were not used during the cross-examination anyway and we do not,

either of us, desire that it be in evidence.

THE PRESIDENT: Very well.

MR. SPRECHER: Mr. President, while I am here there is just one matter which came to my attention because one of the assistants of one of the members of the Tribunal asked clarification from our file room. On 20 April 1943, at page 11883 of the transcript made a statement on behalf of the prosecution concerning our exhibits generally up throughout the cross examination of the defendant Wurster. I stated at that time that Prosecution's Exhibit 1600 had partly been stricken during the examination of the witness, Oswald Pohl, but that the balance of that exhibit was treated as offered and received in evidence. The Prosecution was in error in making that statement. The Prosecution meant to refer to Prosecution Exhibit 1292, NI 382, which is the affidavit of Oswald Pohl which was partly stricken during his examination before the Tribunal on 21 November 1947. Prosecution's Exhibit 1600, NI 388 should remain marked for identification only. This was the interrogation, as opposed to the affidavit, of Oswald Pohl, which was used during his examination which we did not then and do now intend to offer in evidence.

THE PRESIDENT: Very well.

MR. SPRECHER: And, Mr. President, just one further statement. Within the last two weeks the defense has introduced into evidence several hundred affidavits. We obviously have had no time to read and analyze all these affidavits. Actually we have not even counted them to date. We will attempt to review the whole situation over this weekend and on Monday, with your permission, we will make a statement with respect to our

position concerning the cross-examination of these affidavits.

THE PRESIDENT: We will be glad to hear you and to give you an opportunity, Mr. Prosecutor, to state whatever you think is proper. But in that connection we would remind you that the Tribunal has already indicated May 12 as the deadline for the closing of this case and that you should not plan a program that involves the examination of any witness or the cross-examination of any witness after that time.

MR. SPEECHER: Mr. President, the requirements of actual cross-examination with respect to even a very few affidavits is something over which we, as a matter of even the most restrained discretion, have very little control. Up until two weeks ago we had endeavored to rely principally upon the contemporaneous documents and a very, very limited amount of cross examination of a very limited number of defense affidavits. That decision was made because of our belief that as of that time and given the problems of this trial, we were exercising a good discretion in so conducting ourselves. But since that time we must be very honest, we feel in performing our function, to state to you that it has been very difficult — in fact impossible to keep up with the continued influx of affidavits which have been put in. Many of them have been put in in only the last few hours of this trial.

THE PRESIDENT: Mr. Prosecutor, the Tribunal well appreciates your predicament. The problems have worried all of us, including the prosecution and counsel and the counsel for the defense and the Tribunal, with reference to the great volume of evidence with which we all have to deal. I said what I did because I would not want you to be misled to anticipate that there would be any departure from the very definite announcement and commitment

the Tribunal made to the effect that this evidence, under all circumstances and conditions, would be concluded on or before May 12. I do not say it unkindly, but this is not altogether an unanticipated problem so far as the Tribunal is concerned and recourse to the record will indicate that a number of times, before any cross-examination of witnesses was commenced, the Tribunal was reminding counsel of the problem that would likely arise and urging you gentlemen to get under way the cross-examination of those witnesses and to use the facilities of the then designated commissioners or others that might be designated if necessary to accommodate you. Now, we do realize the very tremendous problem that you have on your hands, but we do warn you that you must not expect or anticipate any departure from the previous announcement that the evidence in this case will be positively closed on May 12, and this applies to proceedings before the commissioner as well as before the Tribunal.

MR. SPEECHER: With respect to any congestion before the Commissioner, Mr. President, I only want to state this. The congestion derives from the several hundred put in during the case of the last defendant -- namely the defendant Duorfeld -- one of the last defendants, I should say, and that the schedule is not congested by any requests we have made for cross-examination of affiants whose affidavits were put in before that time.

THE PRESIDENT: Well, perhaps that is all that needs to be said. I take it that there is no doubt in the minds of you gentlemen as to the policy of the Tribunal and it's not necessary for us to repeat it; and I tell you again, do not expect any deviation from it. In other words, the die is cast on that issue. We shall close this evidence on May 12 and

7 May 48 M-SW-12-5 Mills (Von Schen)
Court 6, Case 6

whatsoever is not done will not be done. I have no doubt that with the diligence and loyalty and devotion to your causes that you gentlemen have shown on both sides of the case, we could continue this case quite indefinitely and receive much more evidence that would be just as competent as a lot that we have already received, in our judgment.

DR. NATH: (For the defendants Ilgner and Kuehne): Mr. President, I must go back briefly to the stipulation which I arrived at with Mr. Sprecher. I should like to refer to Exhibit 2332, NI 3763, and ask that the cross-examination and the redirect examination on this document be stricken from the record, insofar as it has been eliminated now by stipulation. I believe that Mr. Sprecher will approve that.

THE PRESIDENT: Mr. Sprecher, will you state your views and we can make a short record on it.

MR. SPRECHER: That was the object of my stipulation and I thought the other parts of the affidavit fell automatically.

THE PRESIDENT: Then is it so stipulated and the Tribunal so understands that the parts of the cross-examination relating to those parts of Exhibit 2332 and 2351 which have been stricken, will not be considered by the Tribunal in the consideration of the evidence in that case.

MR. SPRECHER: There was no cross-examination over any other parts. I think Dr. Nath just wanted to be sure that the other parts of the affidavits were not in evidence.

THE PRESIDENT: Very well.

DR. NATH: Your Honors, as I arranged with Judge Hebert, I shall need about half an hour for the examination of Mr. Kuehne. If I am to begin now I shall do so. Otherwise I suggest I begin after the noon recess.

THE PRESIDENT: We have almost fifteen minutes before our regular recess hour. If we have enough sound track we would suggest that if you can conclude in approximately one half hour perhaps we might run over enough to take care of the matter at this time and then recess for the day. If you cannot, we perhaps had better recess now and start immediately after lunch. I may say that it would be a matter of convenience. I think, if we could conclude the examination before we recess because as I am advised, the commissioner had scheduled a hearing for this courtroom for this afternoon. Now, you can be the judge of the situation

yourself, Dr. Nath, as to whether or not you think you could complete in approximately one half hour.

D.R. NATH: Mr. President, I shall try to be through in half an hour. Of course I can't guarantee it.

THE PRESIDENT: We understand that. Then you wish to have the defendant take the witness stand at this time.

DR. NATH: Yes, please.

THE PRESIDENT: The defendant may take the witness stand.

MR. MINSKOFF: If it please the Tribunal, I should like to mention that the commissioner, Mr. Mulroy, will sit this afternoon to hear certain Auschwitz witnesses, particularly Doemming, Faust and Murr, and any of the defendants who wish to be excused to hear the witnesses should be notified at the present time.

THE PRESIDENT: That suggestion is well taken and the defendants that are interested in the commissioner hearing referred to by the prosecutor may be excused from Court attendance if Court is in session. If Court is not in session they may nevertheless attend the commissioner hearing if they wish. You may proceed Dr. Nath.

BY DR. NATH:

Q. Dr. Kuehne, we have a few more documents to discuss which were put to you during cross-examination. I shall begin with Exhibit 2071, NI-15014. This is a letter from Leverkusen to the G. B. Chem, dated 19 June 1941. In paragraph 2 of this document you will find the following sentence. I quote: "In prospect of possible future difficulties, in November 1937 we made the first application for the establishment of this new pharmaceutical plant." What did you mean by this? Please comment briefly.

A. I meant difficulties which would arise if a fire should break out in this building. In cross-examination on 31 March I pointed out that these buildings were the oldest ones in our factory, that they were mostly wood; that all our pharmaceutical supplies were in there as far as they were all ready for sale and I can add that in the cellar

there was all the wrapping material. One dropped cigarette would have been able to cause a fire there and all our supplies would have been destroyed, which of course would have brought about enormous difficulty in supplying the market with pharmaceutical products.

Q. Dr. Kuehne, you mean to say that this was an inflammable building?

A. Yes.

Q. Were the chemicals supplies there inflammable?

A. Most of the pharmaceutical products are inflammable. There was some alcohol there. All things that burn very easily.

Q. Now, when this building was destroyed by an air raid, would you please tell us briefly what the effect was. Did it burn very quickly and very easily?

A. The effect was unfortunately enormous. The incendiary bombs went through the roof and the wooden floors into the cellar and the paper stored there burst into flames immediately. Both buildings burned down completely with all the supplies. I immediately reported to the authorities of the destructive effect, and I excused myself by saying that I had always pointed out how susceptible to fires this building was.

Q. Dr. Kuehne, when you first foresaw difficulties in November 1937 were you thinking of a war of aggression—that for this reason the building had to be renewed?

A. No, certainly not.

Q. I come to the next exhibit, 2072, NI 15013. This is an article which appeared in the Rheinische Landeszeitung and is signed by you. Dr. Kuehne, may I ask you first of all, whether you wrote this article yourself?

A. I was always an enemy of newspaper articles and speeches. As far as I remember I never wrote a newspaper article myself. I was not able to refuse this request at the time and I asked my secretary's office to write the article for me.

Q. A passage has been quoted from this article here and a phrase

is used which reads as follows: "The securing of the physical life by food and clothing are the principle essentials for a people." And the next paragraph points out that the hydrogenation process of Farben — the so-called Fischer-Tropsch process, was significant. Also the synthetic production of gasoline for motorization. Dr.Kuehne, even if you did not write the article yourself, do you, in general, know what further contents the article had and what its purpose was?

A. I gave my name to this article and of course I remember speaking about it. Of course It was a vital necessity in a highly armed Europe to prepare the people to defend themselves, and motorization and the subsequent necessary obtaining of fuel had become necessary because of the idea of the Volkswagen (the people's car). This article was in a way to be propaganda for the Volkswagen and for autarchy. That was the request that was made. But of course there was no idea of a war of aggression in writing this article.

Q. Dr. Kuehne, I believe we will make the matter quite clear. Is it true that the ideas underlying this article come from the lady sitting next to me?

A. Yes, as far as I recall. She was the one who wrote the article.

Q. Thank you. I now come to the next exhibit. This is Exhibit 2073, and I shall take the next one too — 2074. These are NI 14750 and NI 14747. This is a letter from Leverkusen to the Vermittlungsstelle W in Berlin dated 3 March 1939. Can I ask you first who signed this letter of 3 March?

A. I see no signature here. But according to the sign on this letter it was my secretary, Dr. Warnecke.

Q. Did your secretary, Dr. Warnecke, have certain functions in Leverkusen?

A. Dr. Warnecke and a Dr. Dobmeier had to keep contact with the Vermittlungsstelle W and the offices in Berlin and also with the other Farben plants.

Q. In the second paragraph of this letter it is said that a visit to the Reich Office for Economic Expansion had been suggested by Dr.

Pohland. Will you please tell us briefly what the purpose of this visit was?

A. That is stated in the letter in the next sentence. Namely, in order to discuss with Mr. Pohland the project for the establishment of a sulphuric acid factory at Moosbierbaum. In my examination by my counsel I stated that the first think that I had done at Moosbierbaum for modernization in 1938 was laying the corner-stone for a new sulphuric acid factory which was to replace the old building. Now, as early as 1938, we got no more raw materials unless the project in question was approved by the Office of Economic Expansion in Berlin, and Mr. Pohland had to approve the sulphuric acid factories. Therefore, if I wanted to build, I had to have Mr. Pohland's approval so that I could get building materials. That is why this consultation with Mr. Pohland was arranged.

Q. Dr. Kuehne, for what purpose was the construction of the sulphuric acid factory at Moosbierbaum planned?

A. This sulphuric acid factory was to replace an old building which existed at Moosbierbaum. The main purpose of the new building was to supply the artificial soap factory at St. Poelten with sulphuric acid.

Q. If I understand you correctly that was an artificial soap factory which already existed.

A. Yes.

Q. Is it true, if I say that the establishment of this sulphuric acid factory was not destined for armament purposes or for preparation for a war of aggression?

A. No, not at all. That can be best seen from the fact that although the cornerstone was laid in the summer or the fall of 1938, it was only in July 1943 that this plant went into operation, because up to that time we were not able to get enough materials. That is confirmed by the affidavit of Schueth, Kuehne Document 58, Exhibit 58, in Book 2. Also the fact is confirmed by the affidavit of Platzer, Kuehne Exhibit

61, Document 61, which confirms that in no plant of Donauchemie were armament products produced.

DR. NATH: If the President would like to recess now, or should I go on?

THE PRESIDENT: I think we will permit you to go on and see how well we get along.

BY DR. NATH:

Q. Dr. Kuehne, the next two documents are Exhibits 2077 and 2078. That is NI 14744 and 14743. These are reports of the 50th and 51st meeting of the Chemicals Committee. The minutes deal with the acquisition of the stocks of the Skoda-Wetzler Plants in Austria. Since, by a court ruling, this question has been eliminated, I shall not discuss these documents with you.

I now come to the next exhibit, that is 2079, NI 13356. Here we are dealing with the subject of Aussig-Falkenau. This is an affidavit of Mr. Basch of the Prager-Verein. As far as this subject of the acquisition of the Aussig and Falkenau Plants is concerned, I shall not discuss these questions with you for the same reasons, because of the ruling of the Tribunal. But there are a few points that I must discuss with you from another aspect. First of all, on page 1 of the affidavit, the second paragraph from the end, the affiant Basch says "The Verein for Chemische und Metallurgische Produktion was founded in 1857 as an Aktiengesellschaft, a joint stock company". Would you please comment?

A. This sentence could of course be misleading. It might seem as if this was the so called Prager-Verein. Actually the Verein for Chemische und Metallurgische P,oduktion was a German-Austria company founded in 1857 which only in 1919, after the dismemberment of Austria, became Czech and came into the ownership of the so-called Prager-Verein.

Q. Thank you. Now please look at page 9 of the same document.

The second paragraph contains the following sentence and I quote:

"Carbide is very important for Germany". Would you please be kind enough to comment briefly on that sentence.

A. Of course, carbide is very important for Germany. But it is not, of course, true what is implied here, that this carbide produced at Falkenau was to help the German economic potential. This carbide was either used for welding or primarily turned into nitrogen or lime as a fertilizer to supply that area -- that is the Sudetenland, and adjacent territory. This meant no increase of the potential of the rest of Germany. In addition the remarks about hydrogen acetate chlorinated acetylene are complete nonsense in the eyes of a chemist but I don't hold this against a lawyer.

Q. Dr. Kuehne, would you please look at page 17 of the same document. In the German text at the top the affiant, Mr. Basch, says, and I quote: "The Falkenau factory expanded its production of iron alloys and carbide. The Aussig factory increased its production of chlorine gas and there are indications that war gases were produced there too." Even if Mr. Basch, in the preceding sentence says that he was told what I have just quoted, that means it is not his own knowledge, nevertheless I want you to comment on it briefly.

A. I was just speaking about carbide. As far as I know production was not increased because the necessary power plants were lacking. Chlorine gas was not expanded intentionally but it was merely a modernization of the chlorine plant that was intended, and there automatically

resulted a small increase. Was gas was never produced at Aussig-Falkenau, and I may quote the affiant Tienemann, Kuehne Affidavit 68, Number 68, Book 2. Dr. Tienemann was the technical head of the Aussig-Falkenau plants. He says, and I quote: "The chemical plants Aussig-Falkenau, in the following years -- that is after they were purchased -- Specifically since 1939, did not carry on any war production." I quote further: "In 1940 the Army Ordnance Office gave us an order to produce hexachlorethane from superfluous chlorine. Since the chemical plants refused to build a special factory for this purpose, an Army owned plant was built which we administered as trustees from 1943 on, on behalf of the Army Ordnance Office." I quote further: "The product hexachlorethane referred to further production of smoke screen agents." I may add that hexachlorethane, as Mr. Kugler mentioned, is a completely harmless substance which is merely a preliminary product for the production of smoke screen agents, but in itself it has virtually no physiological effect.

THE PRESIDENT: Dr. Nath, perhaps you can indicate now whether or not you do desire to go on. We do not want to put you under too much pressure to conclude the examination and unless you can conclude in the next five or ten minutes I suggest we had better recess.

DR. NATH: I suggest we recess now. It may last fifteen minutes or somewhat even longer.

THE PRESIDENT: Very well. Then I think the Marshal would be warranted in telling the commissioner that after fifteen or twenty

7 May 48-M-DC-11-1-Mills (von Schon)
COURT VI, CASE VI

or thirty minutes, at the most, we will be out of the room and the
commission will go on here. The Tribunal will rise until 1:30.

13848

AFTERNOON SESSION

(The hearing reconvened at 1330 hours.)

THE MARSHAL: The Tribunal is again in session.

HANS KUEHNE - Resumed

REDIRECT EXAMINATION - Continued

BY DR. NATH:

Q.- Dr. Kuehne, before the noon recess we dealt with Exhibit 2079. I should like to continue dealing with that exhibit. Would you please turn to page 18 of that document and comment on the following sentence? I quote: "They", and reference is made to the plants at Aussig-Falkenau, "were a very welcome place of refuge for a number of war products."

Would you please comment on that?

A.- I should like to refer to Dr. Thienemann's affidavit which I already mentioned before the noon recess. This is Exhibit Kuehne 68 in book 2 where Dr. Thienemann confirms, and I quote: "The chemical plants Aussig-Falkenau in the following years, in particular since 1939, carried out no war production". Since Dr. Thienemann was the technical manager of the plant, his testimony is probably relevant in this connection.

Q.- Dr. Kuehne, I think that will suffice to this matter.

I have a few questions now concerning Dr. Ilgner.

The affidavit of Dr. Basch which is before us designates Dr. Ilgner, in addition to Dr. Zinsser, as the man who was mostly interested in the negotiations. Is that true?

A.- That Mr. Ilgner was interested in the negotiations is possible and probable, but he did not take a conspicuous part because Mr. von



Schnitzler was in charge of the negotiations. Mr. Ilgner, as myself, was only present at these conferences as an expert.

Q.- Do you know whether Dr. Ilgner on the late evening of the 7th of December, when a number of disputes came up during the conference, was still personally present?

A.- No. I remember exactly that Dr. Ilgner, approximately at seven or eight o'clock in the evening, left the conference room at about 7 or 8 o'clock, because as I remember he didn't feel very well.

Q.- Could you, Dr. Kuehne, perhaps tell us what happened next morning when the negotiations continued? What was his attitude toward the other contracting partners?

A.- The negotiations had become somewhat difficult late that evening because of the distribution of the convention quotas to the plants of the Prager Verein and to the Farben acquired plants of Aussig-Falkenau. As a result, the atmosphere had become somewhat tense. The following morning Dr. Ilgner brought champagne into the conference room in order to toast the results of the conference and ease the atmosphere a little.

Q.- Was that actually the case and was there a more pleasant atmosphere among the contracting partners next morning?

A.- Well, even the evening before the tension wasn't very unpleasant but it was a little difficult, as it is often the case during negotiations when there is a difference of opinion with respect to quotas. Next morning when everything had been settled, both partners wanted to demonstrate externally that they had no hard feelings toward each other.

Q.- Now, Dr. Basch states in his affidavit that Dr. Ilgner had worn

a golden swastika. Was there any such thing or do you know whether Dr. Ilgner ever did possess the golden Party badge?

A.- No, as far as I know, there never was a golden swastika. There was a so-called golden Party badge which was issued to people who were among the first one hundred thousand members of the party, but Dr. Ilgner did not possess the golden Party badge.

Q.- Dr. Kuehne, one more question to this document. Had you ever had an opportunity to observe how Dr. Ilgner behaved generally during negotiations pertaining to contracts?

A.- I often was with Dr. Ilgner during contract conferences and I must say that Dr. Ilgner was at all times an extremely polite partner to the negotiations.

May I perhaps add something?

Q.- Go ahead.

A.- I knew Dr. Basch very well. Up to the time of his departure I was often with him. Dr. Basch never hid the fact, and we often discussed it, that he did not like the Germans. In spite of that, our business connections were very friendly and polite. I really cannot explain how this style of this document came about which is actually filled with hatred. Basch, after all, was a cultured lawyer.

Q.- I think, Dr. Kuehne, that this style is only found at the end of the document and that the Defense will make some statements about it, in particular with respect to the interrogator Belle Mayer.

I am now turning to the next exhibit, 2080, NI-10722. It is a docu-

ment which, after the Court's ruling on Sudetenland, does not have to be explained by me any more.

I now turn to the next document. It is Exhibit 2081 and at the same time I should like to mention the other two documents. These are Exhibits 2082 and 2083. The NI numbers are as follows: 11713, 14029 and 14030. I should now like to deal with the first document, Exhibit 2081. This is a letter by the German Reich intermediate with the Labor Office at Door-drecht, Holland. The document bears the date of the 29th of November, 1943. It is directed to the head of the Labor Office at Opladen. This deals with a violation of a contract by the Dutchman Dyking. I want to ask you this first of all. On the 29th of November 1943 were you still the plant leader at Leverkusen?

A.- No, at that time I had already given up my position as plant leader on the 31st of July, 1939, but nevertheless, I should like to assist in explaining that document.

Q.- The Prosecution, when submitting this document, has commented on it as follows: It put the question whether or not this document indicated involuntary labor. This is a case of foreign worker who did not return from his leave and was then reported to the authorities. Dr. Kuehne would you please comment on this document and the statement made by the Prosecution?

A.- At first I should like to point out that it says here? "concerning violation of work contract." I don't think that one would have concluded contracts with an involuntary worker. In Germany it was always customary, I think different from the United States, to conclude work contracts. The factory regulations of the various plants contained periods which had to be kept before the work contract could be dissolved. I always knew of such contracts in the plants where I was active, one day's notice up to fourteen days' notice. In cases where such contracts were not observed, the damaged party could sue. That is, either the employer or the employee. Compensation could be demanded or, for instance, a demand could have been made for a forcible return to the place of work by the police. In other words, it would not have been a special case had such a violation of the work contract been reported to the Labor Office. During the war, in particular, all firms were obligated to immediately report such violations of contracts. I refer you to the document submitted by the Prosecution in Book 70. If a firm requested workers, it had to fill out forms for that purpose. These forms are contained in Exhibit 1392, NI-8961, Book 70, German page 190.

Q.- English page 128.

A.- You can see, under paragraph 7b of these forms, that changes - that is to say, changes of the work place, dismissals from the Wehrmacht, Eastern workers, and departure by violation of contract had to be reported. In other words, quite automatically, whenever a request for new workers was made, any departures of other workers by violation of their contract had to be reported. Another interesting fact becomes apparent from these forms under column 7. I assume that that would be of particular interest to Judge Hebert. As far as I remember, Judge Hebert asked Ministerialrat Stothfang, on the occasion of his examination, whether the firms were also able to request German workers. Stothfang replied "Theoretically yes". If one now looks at the request made by Leverkusen on the 4th of August 1944 for new workers, one can see that of 425 workers, 174 German workers were being requested. In that connection, it must be pointed out that these forms say "when demanding German workers only that figure is to be quoted which is absolutely necessary to cover the demand."

Q.- Is it true that this is written in bold type?

A.- Yes. It furthermore says on these forms "we state that our reports have been made according to our best knowledge and belief." In other words, it can be seen from these forms that Leverkusen, even in 1944, was still requesting German workers as far as that practice was permitted. The Prosecution is wrong therefore when asserting that Farben only wanted foreign workers. Whether the German workers were actually supplied or not is another question, but the plants could exert no influence on that. They

had to take what the Labor Office sent them.

Q.- Dr. Kuehne, on that form which was sent to the Labor Office which you just quoted, a sentence is contained at the bottom which reads as follows. I quote: "The Fuehrer's regulation for the protection of the armaments industry of the 21st of March 1942 is known to us." Would you please tell the Tribunal what this reference is to mean?

A.- This reference means what has been written further up in bold type, according to which only those German workers were to be requested which were absolutely necessary because in those cases these workers were always taken from other plants or called back from the front line.

Q.- Dr. Kuehne, you said before that a violation of a contract, according to German laws, was settled by the firm by getting the violator back to his place of work. In this particular case we have a Dutchman. Do you mean to express and did I understand you to say that in your opinion this refers to a worker who came to Germany voluntarily?

A.- In my opinion, yes. As I already stated during cross-examination I had not known up until the end of 1943 that any workers at all came to Germany in any other way but voluntarily. As far as I know now, people were not forced to come to Germany from Holland. That is what I remember.

Q.- Now, Dr. Kuehne, as the plant leader of Weverhussen you might understand what the possibilities were. Could you, as a plant leader, reject successfully any forced workers being assigned to your plant? Were you in a position to say to them that since they had not come to Germany voluntarily you would not accept them? Were you in a position to send these

workers back to the Labor Office? My second question in connection with this question is this. Did your plant have a production quota during the war?

A.- Perhaps I should answer your second question first. From the witness stand I have already stated that Leverkusen was declared to be a war essential and vital plant. That meant that we were obligated to produce according to what was issued to us in the production quotas. In addition to the necessary raw materials, I had to procure the necessary workers. These workers had to be requested by me from the Labor Office and I had to take whatever was sent to me by the Labor Office. Had I refused to accept these workers assigned to me because I believed that they were not voluntary workers, I would immediately have been arrested and I would either have ended up in a concentration camp or possibly I might even have been indicted before the People's Court. At that time there was a very nasty law on the disintegration of Germany's military strength for which, as I know, the death penalty was given.

Q.- Dr. Kuehno, I shall now leave that document and I only have a few more brief questions in connection with Exhibit 2002. This is a document which was signed by the German expert at the Labor Office Hertogenbosch, Holland, directed to the municipal police. It is dated the 4th of July 1944 and it, therefore, deals with a time when you were no longer in Leverkusen as plant leader. For the record I should merely like to state the following. Can it be seen from this document whether Leverkusen did anything with respect to the contents of that document?

A.- No, this cannot be concluded from the document at all. The letters were neither directed to the firm I.G. Leverkusen nor to the municipality of Leverkusen. It was merely directed to the municipality police at Bortel which, as far as I know, is in Holland.

Q.- The next document, Dr. Kuehne, is Exhibit 2083, which bears the date of the 21st of July 1944. It was written by the same office I just mentioned, the Labor Office of Hertogenbosch, Holland, directed to the municipal police of Bortel. I shall repeat my question on that document. Does it have anything to do with Leverkusen?

A.- I must at first correct something. My reply was made in connection with that document, namely the document which was directed to the municipality of Bortel. The Exhibit 2082 is directed to the municipal police, but it can't be seen from the document to which one it was directed, but I think my answer has covered both of these documents. My answer was that neither of them had anything to do with Leverkusen.

DR. NATH: Your Honor, this concludes my redirect examination. I don't know whether the Prosecution will have any further questions.

RECROSS EXAMINATION

DR. KUEHNE, Resumed

BY MR. SPRECHER:

Q. Dr. Kuehne, before you gave up the position as Betriebsfuehrer in late 1943, did you ever learn from any source that there were any involuntary workers from foreign countries in Germany?

A. No. When Mr. van Street cross-examined me I said that as far as I remembered I only learned towards the end of 1943 of rumors about the forcible transfer of workers in Germany, that is, foreign workers.

Q. Now, did all foreign workers at Leverkusen, while you were still Betriebsfuehrer, have to sign, or have to have, an individual works contract or employment contract before they could receive pay?

A. I am sorry, I can't answer that from memory. Naturally, I did not draw up these contracts myself. That was a matter for my Labor Reception Office.

Q. You don't know whether each of the laborers made individual contracts at all then, is that correct?

A. No, I cannot tell you that.

Q. Now, speaking of the lady that is still to my right, as I understand it that is Frau Kroen, your assistant Defense Counsel, is that right?

A. Yes.

Q. Thank you.

THE PRESIDENT: Anything further with the defendant?

DR. NATH: Mr. President, I think I can now introduce the two documents. This is Kuehne Document 119 and 120. I believe that both these documents are before the Tribunal. Kuehne Document 119 will receive Exhibit No. 119. It is an affidavit of Alfred Duewell of 10 February 1948. The next document bears Kuehne No. 120, and it will receive Exhibit No. 120. It is an affidavit of Dr. Karl Dobmeier. And also an affidavit of Dr. Martin Warnecke. These are the documents which I have yet to introduce on behalf of the defendant Kuehne.

THE PRESIDENT: Now, does any of counsel have anything to say to the Tribunal before we recess until Monday morning? May I ask for some indication of what members of the defendants will desire the use of the Document Room this afternoon and what members will wish to attend commissioner's hearing? If someone will indicate that to me, we can state it on the record and save the trouble of writing formal orders of excuse, which imposes some burden.

Let me ask first: Will the defendants who would like to have the use of the Document Center this afternoon hold up their hands, please? I think Dr. Schmitz wishes to — that was Dr. Schmitz and Dr. von Schnitzler. Thank you.

Then the defendants Schmitz and von Schnitzler will be excused for this afternoon to have access to the documents in the Document Center.

Now, what defendants would like to attend the Commissioner's hearing when we recess? Are there any of you that would like to do that? Dr. Ambros and Dr. Duerrfeld..... Dr. Ambros and Dr. Duerrfeld will

be excused this afternoon to attend the Commissioner's hearing. Mr. Marshal, will you make note of this order?

I may say to you that the schedule heretofore announced will be adhered to on Monday and Tuesday. There is no disposition on the part of the Tribunal to depart from that. We are hoping, however, that by Monday a number of outstanding documents will be available so that they can regularly be introduced. But, following that, as we have indicated before, if we are delayed by the processing of documents, we will make our record nevertheless by having you give document and tentative exhibit numbers to the documents. They will then be admitted in evidence subject to the right of the opposing party to raise questions as to their admissibility.

Judge Hebert, do you have anything to say with reference to any other part of the program?

The Tribunal is now in recess until nine o'clock Monday morning.

(The Tribunal recessed until 0900 hours 10 May 1948.)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauor	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" " "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
→ 7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savolsberg	14387-14424
11 May 1948	Karl Aunscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494

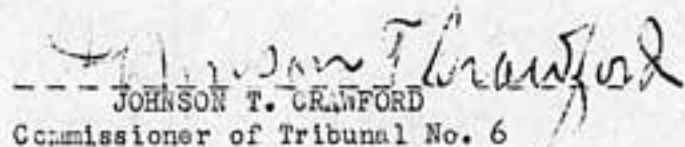
During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PG 2353 C	10899
2303	L79	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11468
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of hearing before a Commissioner for
Military Tribunal VI, Case VI, in the matter of the
United States of America against Karl Krauch, et al,
defendants, sitting at Nurnberg, Germany, on 7 May 1946,
Commissioner Johnson T. Crawford, presiding.

THE COMMISSIONER: The record will show that this is a Commissioner's
hearing for Tribunal Number VI.

CROSS EXAMINATION -- Continued

BERNER SCHLITZ -- Resumed

BY MR. NEWMAN:

Q. Before the recess yesterday, we discussed the minutes of the Paris
meetings at the end of November 1940 which were drawn up by you. This was
our exhibit 1269. Please tell us, to whom did you send your reports in
your negotiations with Rhone-Poulenc?

A. These minutes served only internal purposes. They were drawn up
for the purpose of information of different departments within the firm.
The transcript went to Dr. Grobel, who was at the time my superior, Mr.
Mann, and also Professor Horlein. Whether Dr. Bruggemann received it,
that I don't remember. But I believe, he did.

Q. Now, the notes you made, or the records you drew up in this connect-
ion, were they only for inter-office use, or did you also send copies to
the German authorities?

A. The German authorities, in these cases, received a special repro-
duction, or they received excerpts from our transcripts.

Q. Now turning to your affidavit of 11 March 1940, Mann exhibit
279, his document 390, Mann Book V, page 125. This affidavit dealing
with figures is rather involved, and I would like to analyze with you, item



by item, those figures, in order to see somewhat clearly. Is this affidavit before you?

A. Yes.

Q. Will you please turn to page 1? Do you see that the license fees paid to Bayer more than compensated for the advantages Rhone-Poulenc had under contracts II and III? Now, to clarify this matter, the license fees of 43,000,000 francs were paid by Rhone-Poulenc to Bayer in the first agreement, the so-called License Agreement of December 30, 1940, is that right?

A. Yes, that's correct. The licenses were paid on the basis of Contract I, but, as can be seen from my affidavit, the word old license fees...

Q. Now, under the headline, "License Fees based on the Old Contracts". This is page 2 at the bottom of your affidavit. You mentioned Moranyl. To make it clear for the record, in this paragraph you meant to say that under previous agreements Bayer, in its turn, had to pay license fees to Rhone-Poulenc, is that correct?

A. Yes.

Q. Is that what you phrased on page 2, bottom, I quote:

"The payment of license fees was reversed", or, as you put it in German, "For which a reversal of license payments took place".

A. Will you please repeat the question. I am afraid I did not understand it.

Q. At the bottom of page 2, there you say, "The payment of license fees was reversed," and my question is, do you mean to say by that that in

the Moranyl case, Rhone-Poulenc was excused as a license agreement from continuing the payment of royalties to Rhone-Poulenc?

A. The case was as follows: Before the war, there was a license agreement in existence between Rhone-Poulenc and ourselves about Moranyl and Marganol. These are the two parallel products. In this Contract, it was provided that the profits would be paid into a pool by both firms, and that this pool then, in the ratio of 70 to 30, would be distributed between them.

Q. Just a moment, Who got the 70%?

A. 30% of the profits went to Rhone-Poulenc, and 70% of the profits to Bayer. In practice it came out like this, that Rhone-Poulenc did not sell anything of their products almost, so that Bayer paid Rhone-Poulenc. This situation already once occurred in 1929 and 1930, and led to a discussion in correspondence between ourselves and Rhone-Poulenc. I wish to add something to this. The priority was, without doubt, with Bayer in this particular case, and we believed that it was unjustified, which we, at the time, already pointed out, but Bayer still remained the paying partner to Rhone-Poulenc.

Q. But during the war you went on making such payments, is that right?

A. After the war, no. Until the war began, yes.

Q. Now, isn't it true that payments made by Bayer to Rhone-Poulenc under this previous agreement concerning moranyl which were now discontinued, that these royalties had been rather considerable?

A. Of course, I cannot give you the exact figures from memory. I estimate that on the average we paid, per year, about 25,000 marks, which

were equal, at that time, to 500,000 French francs. That is the sum that we gave to Rhone-Poulenc.

Q. Now you will again be shown your interrogation, NI-13561. If you will please turn to page 10, I shall read to you one question and one answer. Speaking of these royalties, I asked you:

"Have you any idea to what payments to Rhone-Poulenc these moranyl agreements had led?

"A: I cannot give you any facts. I only know that a few years after the agreement had been made, we had to pay several hundred thousand Reichsmarks to the French."

Now, do you recall that this was your statement?

A. Yes, and that also applies. That is correct, these several hundred thousand Reichsmarks, and the same is true of the smaller payments before the war. If you follow the license payments during 15 or 17 years, one will find out that the first years realized extremely high sales figures, while afterwards, they were considerably reduced.

Q. Now, in the last paragraph of page 1 of your affidavit, you refer to mutual deliveries which were pending and not paid for when the liberation of France took place in 1944. You then state that you disregarded, in your affidavit, what you owed Rhone-Poulenc at the time, and vice versa, what Rhone-Poulenc owed you. Is it correct that your unpaid balance, that is the amount you owed Rhone-Poulenc at the time amounted to 12,830,276 French francs, while Rhone-Poulenc owed you just 500,000 francs? Is that correct?

A. Will you please repeat that last question, Mr. Newman, and I would like to ask you, could you perhaps simplify your questions a bit,

because by the time I get the interpretations. . .

Q. I can change that. Now, my question was. Is it correct that those mutual deliveries which were not yet paid for in 1944 amounted to 12,830,276 French francs owed by Bayer to Rhone Poulenc, while, vice versa, Rhone Poulenc owed you just 500,000 francs?

A. I tried, in Leverkusen, to make an exact chart of these figures, but since the bills were scattered among various I.G. offices, for instance, also in the closed up Central Department for Sales in Berlin, I was not able to find all the documents concerning this particular case. It may be possible that this figure of 12,000,000 is the result.

Q. Just a moment. How about your 500,000 francs, is that correct?

A. No, I don't think that is correct, for in our bookkeeping department in Leverkusen I found out that more than 120,000 marks were not paid by Rhone-Poulenc, and those then would be more than 2,000,000.

Q. Now, when weighing the advantages and disadvantages, you state, and I quote from page 1, number 2 of your affidavit, that "the license products governed by the pre-war agreements were taken over into the new agreements at the previous rates." Now, isn't it true that the pre-war agreements under which Rhone-Poulenc paid royalties to Bayer were entered into for a period of 15 years or sometimes, 20 years?

A. Yes, that's correct.

Q. Isn't it true that the most important of these pre-war agreements, the stabrin agreement, was to expire in 1949?

A. Yes, that's correct also.

Q. Isn't it true that one pre-war agreement which had the longest

lifetime was to expire in 1961?

A. Yes, that's correct.

Q. Now, when making your affidavit, and when supplementing it in court yesterday, were you aware that the license agreement of December 30, 1940, was entered into for a 50-year period? It is up to the end of 1990.

A. Yes, in this case we took the period of 50 years on purpose because it was important to us to draw up the whole production of Rhone-Poulenc for this period of 50 years, just as the contract itself runs for that period.

Q. Now you emphasized yesterday that it was an additional big advantage for Rhone-Poulenc, worth at least 3,000,000 Francs, that Bayer waived royalties due under the old agreements for the time beginning September 1939 and ending December 1940. It is for about 16 months. Did I correctly understand you to this effect?

A. Yes.

Q. Now, isn't it true that under the new license agreement Rhone Poulenc's obligation to pay such royalties was extended from the original 8 years, or at the utmost, 20 years, to 50 years, so that Rhone-Poulenc saved royalties for 16 months but had to undertake to pay royalties for a period which was extended by 30 to 40 years? Is that correct?

A. Yes, that's correct.

Q. Now, your affidavit proceeds on the fact that for the first three years, Rhone-Poulenc paid 43,000,000 French francs to Bayer, but that more than 10,000,000 francs would have been paid anyhow under the old agreements.

A. Yes, that's correct.

Q. Do we now agree, that from 1949 on, this 10,000,000 franc item would have been decreased, and completely disappeared in 1961?

A. No, for according to the new contract. . .

Q. Ignoring the new contract. Under the old agreements.

A. Yes, they would have expired in the years which were, of course, set forth.

Q. Is this in the affidavit before us, or in any other of your 10 affidavits? If so, please draw my attention to such references.

A. No, I never referred to that, for I believed it would be my duty to juxtapose to this concorded payment of 43,000,000 what firm of Rhone-Poulenc got from us during the same period. I saw my duty in the fact to set up this actual payment of 43,000,000 with the services that Bayer rendered to Rhone-Poulenc during the same period of time.

Q. Turning to page 2 of your affidavit, when you speak of atabrine in the second half of the page, you figure out a profit of 13,000,000 French francs for Rhone-Poulenc. Were you aware of the fact that France had to pay a tax of 400 francs per kilogram, and did you reduce the profits allegedly made by Rhone-Poulenc accordingly, that is, by 26,000 times 400, which is equal to about ten and one-half million francs?

A. Yes, of course, and in connection with this, I can give you exact information even. I will explain. . .

Q. You have answered my question by saying that you considered this 400 francs. Now, you said again, on page 2, under the heading, "License Fees Paid from Rhone-Poulenc, referring to atabrine," and I quote, "During

the period of the agreement, Rhone-Poulenc paid to Bayer a total of francs, 9,411,030 in respect to atabrine. More than 95% of this amount refer to deliveries made to Bayer, and much less than 5% referred to direct sales to third parties."

Now, isn't it true that up to the end of 1942, 50% of Rhone-Poulenc atabrine shipments went to the French administration, and just 50%, not 95, to Bayer?

A. According to my investigation, I do not believe that's right.

Q. What is the source of your information?

A. I was able to calculate that on the basis of shipments to Bayer, which percentages of the total shipments of atabrine were sent to us in the form of sales. In the course of this, I found out that almost the entire amount of license payments Rhone-Poulenc refers to shipments made to Bayer.

Q. Will you please tell us how you did find this out?

A. On the basis of license payments, we know the percentage that Rhone-Poulenc had to pay to us. We multiplied that accordingly, then added the overhead which Rhone-Poulenc, according to the contract, was allowed to subtract before the calculations of their license payments, and that is how we got the sales price for atabrine. If we compare this figure, with the total amount of 26,000 kilograms, you will find that the practicality of the whole license payments was made for shipments to us.

Q Now, if I correctly understand, page 3 of your affidavit under the heading, "Dolantin Deliveries to Specia", you are now no longer speaking of the license agreement 1 but you go over to the second contract of March 1941, is that correct?

A Yes, that is right.

Q Now, on the second contract of March 28, '41, were any license fees paid by Bayer to Rhone Poulenc under said agreement?

A No, for Rhone-Poulenc did not offer us any product which we were able to utilize by sales.

Q Did Rhone-Poulenc take over more than 2 or 3 products from Bayer under this agreement?

A From a total number of about 9 or 10 products which we offered to Rhone Poulenc, the French firm took over 3 products, Dolantin, Evipan, and Periston.

Q Now, at the same place you mention that Bayer received 321,563 francs license fees for Dolantin. You then estimate that this is tantamount to turnover on the side of Rhone-Poulenc of about 4,000,000 French francs.

Q Now, wasn't the license fee 10 percent of the turnover under the second agreement?

A No, 10 percent minus the overhead--Yes, 10 percent minus the overhead expenses.

Q Now, did you figure then that 10 times 321,000 is approximately 4,000,000?

A Ten times the license fee would be 3,200,000, but to this 3,200,000, I gave a conservative estimate of 25 percent overhead, which would give me the result of 4,000,000.

Q And when calculating the profit, you include the expenses, is that right?

A Yes. I took 15 percent of the sales of the turnover of Dolantin in this case, for the price was correct and the product was new and was successful.

Q Now, as to the profit, you estimated, isn't it true, that a very small turnover for a period of two years of two years of the product which was just in the process of being launched could certainly yield no profits?

A Rhone-Poulenc, of course, had no expenses for this product at all. Rhone-Poulenc received a product that was ready for putting on the market without having any costs in laboratories, research, and so forth.

Q Now, when making your affidavit, did you have any indication that Rhone-Poulenc, of course, had no expenses for this product at all. Rhone-Poulenc received a product that was ready for putting on the market without having any costs in laboratories, research, and so forth.

Q Now, when making your affidavit, did you have any indication that Rhone-Poulenc actually made a profit?

A Of course, I didn't look into the books of Rhone-Poulenc, but these figures I calculated according -- on the basis of my

general experience and in connection with that I kept in mind the conditions that I knew from -- during the war in France.

Q You then mentioned Pyridin deliveries by Bayer to Rhone-Poulenc and redeliveries of sulpha-pyridin by Rhone-Poulenc to Bayer. These are pages 3 to 5 of your affidavit. Now, first of all, this was in the framework of the second contract?

A No. That was a contract which was entirely outside of the actually concluded contract.

Q As to the importance of these deliveries, isn't it true that the entire business Rhone-Poulenc had with German, that is, German firms generally, not only I.G. Farben, that this entire business during the war amounted to less than 4 percent of Rhone-Poulenc's entire turnover?

A Yes. This percentage of 4 percent, I, of course, cannot prove on my part, but I would say the following. Rhone-Poulenc, that is, Mr. Trier, and Mr. Bosch, once gave their whole pharmaceutical turnover in Leverkusen for an amount designated from bills in Leverkusen, we had altogether 148,000,000 francs or rather we had received those from the French. That is within hardly two and a half years. Thus this does not correspond in any way with the statements of Rhone-Poulenc neither with the turnover nor with the percentage.

Q You would figure that it was about 20 percent, if I correctly understand you?

A Well, without any exact calculation, this is difficult to say.

Q But the basis of your theory is between 50 and 60 million a year?

A Yes, that is approximately correct.

Q Now, Rhone-Poulenc paid to Bayer a compensation of 1,000,000 francs for Bayer's waiving of future sales of pharmaceutical in France, isn't that true?

A I don't think the answer was -- the question was put properly. Would you please repeat it?

Q Did Rhone-Poulenc pay to Bayer a compensation of 1,000,000 francs for Bayer's waiving its future sales of pharmaceuticals in France in 1942?

A No, it isn't like that. The Rhone-Poulenc firm paid 1,000,000 francs to Bayer for Bayer retiring from the French chemical business.

Q Now, did you consider this point in any of your affidavits and particularly in your affidavit of March 11, 1948, Exhibit 279, if so, will you please tell me where?

A No, that was not calculated -- that was not concluded because there was a return output by Bayer which cancelled itself.

MR. NEWMAN: Mr. Commissioner, I have no further questions, Sir.

DR. TUEBK: Tuebk, assistant for Dr. Berndt for the defendant, Mann.

REDIRECT EXAMINATION

BY DR. TUERK:

Q Mr. Schmitz, the prosecutor asked you during cross examination about your affidavit, Mann Exhibit 185, whether you informed the gentlemen of Rhone-Poulenc that the working out of the patent department, Leverkusen, was passed on to the German Armistice Delegation. In order to refresh your memory, Mr. Newman showed you a new document, Prosecution Exhibit 2345, that is a letter from the patent department, Leverkusen, of 10 February 1941, which again had reference to a letter of the VIPO Berlin. I want to show you this document once more and for basis of my further questions, please read the second sentence.

A The foreign office wants to pass them on to the German Armistice Delegation, which on its part is to submit it to the Frenchmen.

Q Do you recall, Mr. Schmitz, what the Reich Justice Ministry had to say about the petition of the patent department in Leverkusen.

A The Reich Justice Ministry answered that for the time being it does not want to do anything about this matter, that it wants to postpone it, since it does not intend to interfere in the internal legislation of France.

Q Do you think, Mr. Schmitz -- do you mean the letter of

7 May 1948-M-MSD-8-6-Spears (Reischer-Lea)
Court VI, Case V¹ COMMISSION

the Reich Justice Ministry of 26 March 1940, that is, Document
Mann-559, Exhibit 184? I will show you this now.

A Yes, the first sentence is sufficient.

Q Would you please look at the original photostat which I gave you, too, and will you tell me whether this letter of the Reich Justice Ministry or the accompanying letter was signed by you?

A Yes. It contains a handwritten notice by myself and my initials.

Q Is the situation clear to you now, and what do you say now about the question as to whether you informed the French that the report to the Reich Justice Ministry of 10 October was passed on to the Armistice Delegation?

A I don't think that the report was passed on to the Armistice Delegation, and I do not recall having negotiated with the French about this point.

Q Thank you. During the cross examination the prosecutor showed you another document, that is a letter of Mr. Faure-Beaulieu of Bayer of 28 December 1940, which was introduced yesterday as Exhibit 2346. In this connection, the prosecutor asked you whether Rhone-Poulenc was in a bad position because of the fact that Rhone-Poulenc in order to produce Bayer products had to pay royalties which every other producer in France could also undertake. You answered this question that there were no such other firms since this case was not probable because the production of Bayer products needed complicated machinery as only Rhone-Poulenc had them. Did this answer of yours also refer to the products of the first agreement?

A Well, Rhone-Poulenc was already producing them, and practically speaking, Rhone-Poulenc was the only delivering firm from France. I do know an exception.

Q One moment please. Did Rhone-Poulenc submit any case to Bayer in which the right to be the sole producer was endangered in any way?

A No, I do not recall that Rhone-Poulenc told us anything like that ever.

Q Wasn't there a case about the firm Roussel, or is that an error on my part?

A No.

Q What was the matter then?

A That was the only case which I wanted to mention before.

Q How did Bayer conduct itself there?

A We had a pre-war agreement with the Roussel firm, and we dissolved that treaty so that the advantages of the second agreement in the field under question--in question, that is, sulfonamides company also be of profit to Rhone-Poulenc -- of benefit to Rhone-Poulenc.

Q Did Rhone-Poulenc recognize this conduct of Bayer in any way?

A I don't remember of any written message, but on an -- in a session in a conference Professor Hoerlein told the French about our separation from Roussel which the French welcomed very much. I want to mention expressly that

when Bayer separated from "Gussel", it waived an amount of 5,000,000 francs, which practically speaking, we just wrote off in order to prove to Rhone-Poulenc our loyal cooperation.

Q In the cross examination about your affidavit, Mann Exhibit 201 and Mann Affidavit 211, you were asked about the negotiations with Rhone-Poulenc of 29 November and of

2 December 1940, and the prosecutor showed you your interrogation under oath which he offered as Prosecution Exhibit 2347. In this connection, you were asked from what German authorities one might expect an interference, and if I understood you correctly, you mentioned the behavior of the Reich Ministry of Justice, as it was known from conferences and from minutes and records. Was the Reich Economics Ministry your only source of information and the only authority which had to say anything about relations with foreign firms?

A No. In Paris there was the so-called German Economic Staff which was practically speaking as important for us as far as the French conditions were concerned as the Reich Ministry of Economics itself.

Q Were there also party agencies which concerned themselves about relations with countries abroad?

A Yes, the so-called foreign organization of the party--abbreviated A.O.

Q What opinions of these agencies and authorities were known to you at that time?

A The German official agencies wanted a connection in cooperation with the French industry -- French economy because they intended to form organizations, as we knew them for a long time in Germany.

Q Do you know that there were also people who asked a complete stoppage of French industry?

A Yes, on the occasion of a conference in Berlin in October 1940 we heard from an official of the Reich Economics Ministry that some firm, or the director of one of these firms had demanded that the French pharmaceutical industry be discontinued with the reason that the German pharmaceutical industry was enough to take care of the requirements.

Q Mr. Schmitz, from the next minutes about the conference in Berlin -- in Paris, November, December, that is Prosecution Exhibit 1269, the prosecutor showed you a passage in which you reported about the suggestion of Mr. Arelle to pay royalties for the products in which Bayer had a priority which was also recognized by Rhone-Poulenc, as it says in these minutes, and the prosecutor asked you whether this offer was made in connection with the note of Mr. Mann that Rhone-Poulenc would later regret that Rhone-Poulenc had not exploited the preparedness to negotiate, which existed on the part of Bayer. I am not sure whether Mr. Newman used the expression "indication" or "threat" but it seems necessary for me to clarify this, that you should briefly explain how and with what words and what sense Mr. Mann expressed his fears to Rhone-Poulenc.

7 May 1948-MMS^U-9-5-Spears (Lea)
Court VI, Case VI COMMISSION

A We went to Paris at that time in order to conclude an agreement -- a private enterprise agreement with Rhone-Poulenc. As I said yesterday, we knew the opinion which was prevalent in Berlin. On the other hand, we wanted to get ahead of the expected armistice conditions by this treaty. We intended concluding a real cooperation with them which would not have seemed possible for us by using pressure.

Q Mr. Schmitz, that does not exactly answer my question. I asked you how Mr. Mann at the end of the first phase of these negotiations expressed himself towards the gentlemen--and I am doing them in order that you may understand the purpose of the question and to clarify the questions of Mr. Newman--that is, to find out what the connection was between Mr. Grillet and the question of Mr. Newman.

A Mr. Mann regretted very much that the French did not want to agree to our plans for cooperation, and he told those people that of course the German agencies who were interested in this would have to be informed to that effect by him. He regretted very much that the French would not accept his preferred hand for cooperation because in the other case they probably would get a more disadvantageous deal out of it.

Q Was it your impression that the man had expressed a threat?

A I already rejected the word "threat" yesterday. We were sitting there as business men who sometimes negotiated quite lively, but as for any threat, no such threat was ever made by our side, and I don't think that one can find any indication to that effect in my records.

Q Mr. Schmitz, I now come to the questions in the cross examination asked about your affidavit, Document Mann 390, Exhibit 279. The prosecutor asked you whether in making out the atabrin bill that refers to the 30 million French francs, you considered the taxes? Since there are some unclarities here, would you please explain this atabrin bill to France?

A I said before that I am in a position to explain this bill very exactly. The French demanded from us a price of 190 marks per kilo. The French might have noticed my astonishment when they mentioned this price because at most we had expected a price of 100 marks. They admitted that they would be in a position to reduce the price, but they could not ask for any less because they considered 100 marks as the lowest price they could pay to their authorities.

In order to meet us half way, they themselves suggested that the deliveries be included in the license agreement. They also told us about their expenses which were based on 190 marks. That is altogether 67.50 Reichsmarks. As the actual manufacturing price which they achieved, they named 123 marks 50 pfennig. If I now say that we in Elberfeld had a price of 45 marks per kilo for this product and the French had 123 marks,50 for that product--that is almost three times as much--then 5 marks profit per kilo would be more than modest. I think that if one were to look into the books of Rhone-Poulenc, one would find that they made 40 to 50 marks profit per kilo. They did not manufacture any more expensively than we did because at that time the expenses in Germany and in France were approximately the same.

Q In the cross examination, the prosecutor also mentioned the mutual debts which still existed at the end of the war. Could one determine at that time at all if and what payments or if such deliveries had reached the firms on the basis of which these debts were in existence?

A No. As I have already said, I had the greatest difficulties in Leverkusen. I could not determine exactly what deliveries had arrived in our plants and in the French plants, and what bills had still not been paid. I could merely determine in the accounts about our customers, and there were Rhone-Poulenc and some other firms included in that. In the authority for foreign exchange, we had stated about 125,000 marks as bills not yet paid. The bill on the other side ran into difficulties because the bills were in Berlin at the Central Purchasing Commission and they got lost in the confusion when Berlin was captured. The office has not been dissolved.

Q If I understand you correctly, you consider the figures mentioned by you as absolutely insecure?

A Yes, the figures are not certain; at least I cannot prove them from any material available in Germany. It might be that we sent some deliveries to France, but these sums did not reach the coffers.

of Rhone-Poulenc via the banks. This is something which I cannot confirm definitely though.

Q The prosecutor asked you when discussing your affidavit Mann Exhibit 279 about the old agreement about Moranyl. If I understood you correctly, when you answered that you said that in Moranyl, the priority in view of the invention and sale of this product lay with Bayer.

A Yes. Because of that fact, that the quota was fixed at 70 for Bayer and 30 for Rhone-Poulenc.

Q Did I also understand you correctly when you answered the prosecutor that the payments from the Rhone-Poulenc received from the common pool at the amount of 30 per cent were just justified because Rhone-Poulenc had practically not sold anything?

A Yes. Actually that is so because there is a correspondence which contains a serious difference of opinion about this between Rhone-Poulenc and ourselves.

Q To what period of time did this pool extend?

A I think since 1926.

Q When the prosecutor asked you which products were granted to Rhone-Poulenc in compliance with agreement 2, you mentioned three products. May I ask you what about those products and that machinery which Bayer brought in reference to Theraplix?

A That was the rest of the assortment.

Q How many products were those?

A There were about 90 products available, of which Theraplix gradually took over 62.

Q Do you know what Rhone-Poulenc in connection with Agreement 2 and 3 granted to Bayer or Theraplix in the form of licenses?

A Pardon me. Will you please repeat that.

Q In connection with this question, do you know how many products and substances the Rhone-Poulenc made available to Bayer and Theraplix?

A Rhone-Poulenc did not make any products available to Theraplix, even though it promised to do so when the negotiations were going on. We ourselves, as I have already said, did not take over any product from Rhone-Poulenc, because in the period mentioned in the agreement it was not able to offer us any suitable product.

Q You mentioned that Bayer, on the basis of license agreement 2, made the substances peratin and periston to Rhone-Poulenc for licensing, and the prosecutor put to you in the cross examination that the license agreement No. 1 was to be valid for 50 years and

that the license agreement ² was also for 50 years. In this connection, let me ask you this: in what time does the product remain on the market on the basis of the experience which Bayer made in this business.

A That is why we chose 50 years because we thought that normally speaking a pharmaceutical specialty is on the market for 60 to 70 years; that is to say, after about 70 years the line of a firm changed. That is looking at it from the first day.

Q Is it correct to say that a product only develops properly only after a few years, that is commercially speaking?

A Yes, certainly. That is in the nature of a pharmaceutical specialty. One has to receive reports from clinics; one has to make propaganda among the doctors; and a product reaches the clinics after 7, 8, 10 or 12 years. Then if the firm supports it by propaganda, it remains on the market for a long time, sometimes for decades. It remains on that scale, and then it gradually is displaced by a new product.

Q Is that the reason why in the products cuipan and periston, and because of the short duration of the existence of the agreement with Rhone-Poulenc, Rhone-Poulenc did not yet pay any amount of royalties to Bayer or any high amount?

A Yes, of course. Rhone-Poulenc's own production did not start until 1942, I believe. Then one has to send letters to druggists, doctors, and one has to have the things prepared by physicians, etc. One has to consider all that. Such a product needs many years to be really of value to doctors.

Q Mr. Schmitz, in reference to peridin, you said when asked by the prosecutor that this substance was outside of the second agreement. Did the transfer of this product peridin not lie within the general agreement with Rhone-Poulenc in reference to the mutual cooperation?

A Yes, of course. We considered all the negotiations with

Rhone-Poulenc as falling into the general agreement. We did not simply want to conclude a few agreements and get a few licenses from Rhone-Poulenc. We actually wanted a more than commercial cooperation with Rhone-Poulenc. We wanted an honest and lasting understanding and contact with them. In this sense, we considered all negotiations with Rhone-Poulenc as belonging to our agreement.

Q The transfer of peridin was a special favor outside of the agreement?

A Yes.

Q There was no obligation to do that?

A No, none at all. Rhone-Poulenc was not able to obtain this product in France and we supplied it from our stocks.

Q One final question about this affidavit. You mentioned the waiver of the fine chemicals, and you told Mr. Newman about the payment of one million French francs: "That in this case we have a compensation for that." May I then ask you what this waiver of fine chemicals in France means, and whether the payment of one million francs is an equivalent compensation for this waiver.

A In no way. In France, we achieved a production of 500,000 marks of fine chemicals; whereas one million francs merely represent 50,000 marks. Rhone-Poulenc was the largest and in many specialties the only producer, and doubtless it took over that spot which we left open. For that, a payment of 50,000 marks is at most a recognition, but no real compensation.

Q. Mr. Schmitz, I now come to your interrogation under oath which the prosecution submitted yesterday as exhibit 1247, and for which you have been called in to be cross-examined.

DR. NEWMAN: Just for the record the exhibit number was 2147.

Q. It was an error. Do you have this interrogation before you?

A. No.

(Document handed to witness)

Q. Just look at page 3 please. You mentioned there that the bad business in France of Bayer and the fact that Bayer could not get anywhere with its sales in France is to be traced back to the animosity of the French.

MR. NEWMAN: Your Honor, I object to this line of questioning. The affidavit is not in evidence. It has been marked for identification only and if counsel wishes to introduce it, he must introduce it as his own exhibit.

DR. TUERK: I beg your pardon. I was of the opinion that this affidavit had been introduced as evidence.

Q. (By Dr. Tuerk) In the cross-examination you were asked yesterday with respect to aspirin and you were asked particularly how high the turnover was in France as far as aspirin is concerned. Will you please tell me now whether and to what extent aspirin and A.S.S. are two different things?

MR. NEWMAN: I object to this question. There must be a mistake. I have not asked any questions in this connection.

Q. (By Dr. Tuerk) Mr. Schmitz, I now come back to your affidavit,
13886

exhibit 279, Mann exhibit 390. In reference to this affidavit you were asked how the waiver of Bayer as far as the licenses are concerned worked out from the beginning of the war to the beginning of agreement I, what the relationship of this waiver would be to the duration of the first agreement. You said when answering this question that the development could not yet be anticipated. Will you please tell me now what do you mean by that answer?

A. Would you please repeat that?

Q. The prosecutor asked you by referring to the waiver on the part of Bayer about licenses which Rhone Poulenc owned them from the beginning of the war to the beginning of agreement I, whether this waiver was not compensated for by the long duration of the first agreement. Would you please explain your answer to this question once more?

A. I think I have already answered it. A pharmaceutical product isn't just dropped when the patent for it expires. Whoever produces a pharmaceutical product and sells it under the protection of a patent sells this product on a certain scale and then it goes on even far beyond the protection afforded by the patent.

Q. I have a final question, Mr. Schmitz. You said yesterday repeatedly during cross-examination that you were an expert on the French business. How long did you work on the French business?

A. Since 1936.

Q. And how long did you handle the French business for Bayer?

A. Until I was drafted, end of 1944. First I was captured by the Americans. Then I was held by the French, and last year just around

this time of the year I returned from French captivity. I got in touch indirectly with Mr. Beau while I was a prisoner of war.

Q. How come?

A. I was interpreter in a ministerial agency and I was supposed to list references, so I --

MR. NEWMAN: I object to this question because it has nothing to do with the cross-examination.

Q. Would you please answer the question?

A. Shall I continue?

Q. Yes.

A. So I listed Mr. Beau and the agency wrote to Mr. Beau. He answered that he did not have anything to criticize about my conduct during the entire war. I was able to see this letter myself at this agency.

Q. Did you often negotiate with Mr. Beau concluding agreements 1 and 2 and later about the cooperation with Rhone Poulenc?

A. From the very beginning, that is, from agreement 1 on, I participated in the negotiations about agreement 2, and I also conducted the preliminary negotiations for agreement 3 until the question of the distribution quota was started.

DR. TUEK: Mr. Commissioner, for the record I would like to say the following about the objection of the prosecutor. In the course of the cross-examination repeated mention was made of the negotiations which were conducted about agreement 1 with the gentlemen of Rhone Poulenc and in which the witness Schmitz participated. During this line of questionin

it seemed important to me to let the witness finish when he explained here that during his French captivity he had taken up contact with Mr. Beau of Rhone Poulenc and Mr. Beau had informed him that he had nothing to criticize about his conduct during the war, and this referred also to the negotiations with himself. No further questions.

THE COMMISSIONER: Is the prosecution going to have several questions more or not?

MR. NEWMAN: No further questions.

THE COMMISSIONER: You have a good many, you say?

MR. NEWMAN: I have no further questions.

THE COMMISSIONER: Oh, that's good. The Commission will be in recess until 1:30.

(The Commission adjourned until 1330 hours on 7 May 1948.)

AFTERNOON SESSION

(The Commission reconvened at 1400 hours, 7 May 1948)

THE MARSHAL: The Commission is again in session.

MR. AMCHAN: If your Honor please, the defense witness, Dr. Max Winkler, was scheduled to be brought here today for cross-examination. We have just been informed by the prison officials the affiant is in the hospital; consequently, he is unavailable.

Under the circumstances, we would suggest to your Honor that we adjourn this session until Monday at ten o'clock at which time we expect to receive a report from the prison officials as to whether the particular witness is available and can be brought to the court. Prosecution had an informal discussion with defense counsel as soon as we learned of the situation and we agreed to schedule the hearing for ten o'clock. If the witness is here, we will proceed; if he is not, then we will make other arrangements.

THE COMMISSIONER: The I. G. Farben Commission will recess until Monday morning at ten o'clock; and tomorrow at nine-thirty the Commission will have a hearing in Court Room No. II — and there will also be one in Court Room No. III.

DR. SIEMERS (Counsel for defendant von Schnitzler): Dr. Winkler is my witness. Therefore, according to the rules of trial, I would have to call him for cross-examination. I only wish to clarify that Dr. Windler is a prisoner and I myself can do nothing about the fact whether or not the witness would come into court for examination. I would

normally be obliged to do something about getting the witness here but, since the situation is such, it is up to prosecution.

MR. AMCHAN: Well, that is a fairly accurate statement. The witness is a prisoner but at this particular moment it is a question of his physical condition, your Honor, whether he is in a hospital available to be brought to the court room or not.

THE COMMISSIONER: The prosecution will see about that? Okeh, we will recess until Monday at ten o'clock.

(The Commission adjourned until 1000 hours 10 May 1948)

CERTIFICATE OF COMMISSIONER

I, JAMES G. MULROY, AGO #3-397399, hereby certify that I am a duly appointed, qualified and acting Commissioner, to take the testimony of witnesses under Order of Tribunal No. 6, in the case of United States of America vs Krauch et al; that pursuant to said Order, upon the dates hereinafter listed, I have supervised the taking of testimony of witnesses examined before me, and said testimony has heretofore been properly recorded, reported and filed in the Office of the Secretary General and now constitutes a part of the official transcript of proceedings in the above case; and the dates of such examinations, names of witnesses and pages of said official transcript are as follows:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
6 May, 1948	Ernst Hackemann	13739-13751
6 May, 1948	Gerhard Dietrich	13752-13771
6 May, 1948	Guenther Schiller	13772-13783
6 May, 1948	Herbert Ulltzka	13784-13797
→ { 7 May, 1948	Gustav Lurr	13894-13924
7 & 8 May, 1948	Rudolf Doemming	13925-13963
8 May, 1948	Max Faust	13965-14041
12 May, 1948	Karl Bayer	14458-14490
12 May, 1948	Fritz Schermuly	14492-14507

I further certify that the aforesaid transcript pages comprise a full, true and correct report of said proceedings, testimony and evidence heard and recorded at proceedings before said Commissioner.

Dated at Nurnberg, Germany, May 24, 1948

James G. Mulroy

Commissioner of Tribunal No. 6

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Official Transcript of a hearing before a Commissioner for Military Tribunal VI in the matter of the United States of America against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany on 7 May 1948, Commissioner Mulroy presiding.

THE MARSHAL: The Commission of Tribunal VI is now in session.

THE COMMISSIONER: Will you report the defendants who are present, for the record?

THE MARSHAL: May it please Your Honor, Dr. Ambros and Dr. Duerrfeld are present in the courtroom.

THE COMMISSIONER: Dr. Mueller, have you anything to say for the record?

DR. MUELLER: Mr. Commissioner, the official notice to the Defense about the cross-examination to take place this afternoon could not have been made before twelve o'clock this noon. Apparently, last night there was some conference between some counsel of the Prosecution and counsel of the Defense, and I therefore can state that we can do without the presence of those people who are not present now.

THE COMMISSIONER: Very well. Mr. Minskoff, how many witnesses have you requested to be present this afternoon?

MR. MINSKOFF: I believe there are three who should be present this afternoon for cross-examination. I think all three are Duerrfeld witnesses.

THE COMMISSIONER: Are they German?

MR. MINSKOFF: They are all German: Mr. Doemming, Mr. Murr and Mr. Faust. I might mention that the announcement was made in open court today that these witnesses will come here this afternoon before

13892



the Commission and that any defendants that wish to be excused or wish permission to hear these witnesses should receive permission, and the Presiding Judge gave them their permission.

THE COMMISSIONER: Now, I was going to ask you about the documents. Are there quite a number of documents covered by these three witnesses?

MR. MINSKOFF: There are, I believe, one affidavit of each witness Murr and witness Doemming, and I think five or six affidavits of the witness Faust.

THE COMMISSIONER: Well, then we will probably be here all afternoon. I would like, so far as possible on cross-examination, Mr. Minskoff, for you to be particularly careful to be within the boundaries of the affidavit so that we will not make it any longer than we have to make it. I have not the record before me, so I must depend on you to do that. I have not these affidavits in my possession.

MR. MINSKOFF: We will try to keep them as narrow and as short as we can.

THE COMMISSIONER: You may bring in — Has the Defense something to present for the record?

DR. SEIDL: (For defendant Duerrfeld) May it please the Commissioner, with the permission of the Commissioner I ask to call the witness Gustav Murr to the stand.

THE COMMISSIONER: The witness will be produced, please.

(GUSTAV MURR, a witness, took the stand and testified as follows):

Witness, please raise your right hand; state your name.

WITNESS: I, Gustav Murr.

THE COMMISSIONER: Repeat this oath after me: Swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(Witness repeated the oath).

The witness may be seated.

Dr. Seidl, you may proceed, if you have direct examination.

DR. SEIDL: Mr. Commissioner, initially I want to state that the affidavit of this witness, Gustav Murr, can be found in Book 1 for the Defendant Duerrfeld. It bears the Duerrfeld number 853 and was offered as Duerrfeld Exhibit 18, in Document Book 1 it is on page 62.

DIRECT EXAMINATION

GUSTAV MURR

BY DR. SEIDL:

Q. Witness, for the record, won't you please once more state your full name and the date of your birth?

A. Gustav Murr; born 18 October 1895.

Q. What is your present residence?

A. Würzburg, Sandbergerstrasse No. 1.

Q. Since when were you working for I. G. Farbenindustrie A. G.?

A. Since 15 February 1923 until the 1st of July of last year.

Q. When did you come to the Auschwitz plant of Farben?

A. I was sent there on the 20th of February, 1941. I was at Auschwitz once at the beginning of March and then again at the end of March.

Q. How long were you active in Auschwitz?

A. Until the 1st of June, 1943.

Q. Witness, let me ask you what your position was at the new plant of Auschwitz?

A. From March, 1941, until August 1941, I was the local construction foreman under the Construction Manager, Diploma Engineer Faust, who at that time was not yet at the construction site of Auschwitz on a permanent basis.

Q. You said that you were at the new plant of Auschwitz from the very beginning, at the construction site. I now want to ask you what the situation was with respect to labor at the time you were there.

A. From the very beginning we had not enough workers.

Q. Did you yourself apply to get additional workers from the labor offices in Bielitz, etc?

A. At the labor office of Bielitz, branch office, Auschwitz, I tried almost daily to get workers. I went to Labor Office Manager Mr. Maluske at Bielitz and also to the labor offices of Kattowitz. It was my task to organize the construction site and to equip it properly. Naturally, one needs the necessary workers for that purpose.

Q. What were you told at the labor offices and district labor offices with respect to your repeated requests for additional workers?

A. The labor offices endeavored to assign to us the necessary workers, but without success. For that reason our task was particularly difficult at Auschwitz. Moreover, the Poles were to be evacuated by the SS.

Q. Therefore, it was impossible to assign to you sufficient workers?

A. At first it was very difficult as a result of the evacuation of the Poles who were living at the time in the area around Auschwitz. That was from April to May or June.

Q. Were you ever told that on the basis of an order by a high-ranking authority, by Goering himself, the employment of inmates was ordered?

A. On the occasion of one of my visits to the branch office, Auschwitz, of the Labor Office Bielitz, I was told, at the beginning of April, that we had to expect an employment of inmates in the near future because no other workers were available at present.

DR. SEIDL: I have no further questions.

THE COMMISSIONER: Is there any further interrogation from the Defense? Hearing none, you may cross-examine, Mr. Minskoff.

CROSS EXAMINATION

GUSTAV MURR, Resumed

BY MR. MINSKOFF:

Q. Mr. Witness, you testified concerning the procurement of labor, and you also mention in your affidavit the responsibility of I. G. Farben for the use of concentration camp inmates. Now, Mr. Witness, on the 27th of March, 1941, you attended, did you not, a meeting with the SS Commandant Hoess, who was Commandant of the Auschwitz concentration camp at which the problem of procuring concentration camp inmates was discussed? Isn't that so?

A. Yes.

Q. Now, isn't it true, Mr. Witness, that this meeting was a follow-up on a preliminary discussion between the defendant Bustafisch and Obergruppenfuhrer Wolff which was held also for the purpose of discussing the details of the ways and means in which the concentration camp could assist in the construction of the I.G. Farben plant?

DR. FLAEGESNER: I object to this question. It goes beyond the frame of cross-examination. The witness has stated nothing about that in his affidavit and he could not possibly know anything about it, because the witness was not present during the conversation mentioned by the counsel for the Prosecution.

THE COMMISSIONER: Have you any reply to that, Mr. Minskoff?

MR. MINSKOFF: Yes, of course. The witness testified on his own direct examination of the problem of procuring labor and how he went to Bialitz and he had conferences to procure labor. Now, the question that I asked, and which was both with respect to his testimony and his affidavit which speaks of I.G. Farben responsibility for the inmates, the question that I asked goes back directly to a meeting which this man attended, and the purpose of which was the procurement of concentration camp inmates from Auschwitz for the building of I.G. Auschwitz.

Now, the very minutes of that meeting which this witness attended specifically state -- and that is presently in evidence -- that this meeting which this witness attended was a follow-up on the preliminary meeting which the defendant Bustafisch attended with Obergruppenfuhrer

Holff for the same purpose of getting inmates to work for I.G. Farben.
I just don't understand the nature of the objection.

THE COMMISSIONER: Well, you have stated your reply to the objection, at any rate. Counsel for the Defense -- I do not remember that you stated your name for the record.

DR. FLAACHSNER: Dr. Flaachsner. I am sorry. I want to say the following in that connection. Either the question is superfluous, then the Prosecution can always refer to the transcript -- one cannot expect the witness to explain this matter because he wasn't present at the conference to which he refers. This conference took place in Berlin; the witness can make no statements about it from his own knowledge, and I don't get the sense of the question at all.

MR. MINSKOFF: Let me state for the record that if Defense counsel would just patiently sit by until the question is introduced or proposed, which has some relationship to the meeting, he could then make his appropriate objection. The only question before the Commission now was whether the meeting which he attended was a follow-up on a preliminary meeting, and he certainly knows whether that was true or not.

THE COMMISSIONER: Counsel, I am going to make a rule on this, on the objections and that is where an objection is made, if the grounds to the objection will be clearly stated, counsel on the opposing side will then have an opportunity to make a reply, and I will then have on the record again, a response from the original objector, and that will close up the matter. Otherwise, we will spend all of our time in argument of counsel.

I will ask you gentlemen to have your objections clearly in mind; have your reply clearly in mind, and then if you desire to make a response, go ahead with it. Now let's go ahead with this witness.

MR. MINSKOFF: Shall I repeat the question?

THE COMMISSIONER: If you please, Mr. Minskoff.

BY MR. MINSKOFF:

Q. Now, Mr. Witness, isn't it true that the meeting of the 27th

of March, 1941, which you attended, was a follow-up on the preliminary discussion held by the defendant Bustafisch, and Obergruppenfuhrer Wolff, for the purpose of discussing the details of the ways and means in which the concentration camp could assist in the construction of the I.G. Farben plant?

A. I only know that Chief Engineer Faust told me that Obergruppenfuhrer Wolff, the liaison officer between the SS and Farben, would act on behalf of Farben. Otherwise I know nothing about this conference with Bustafisch.

Q. Now at the conference which you attended with SS Commandant Hoss, and which also defendant Duerrfeld attended, is it not a fact that at that conference, Mr. Faust, whom you referred to a minute ago, requested in the presence of that whole conference, that the SS make available one thousand concentration camp inmates for 1941 for I. G. Auschwitz?

A. Whether the figure 1000 was mentioned, I don't know.

DR. SEIDL: I object to this question.

THE COMMISSIONER: State your objection, please.

DR. SEIDL: The Prosecution in their rebuttal Document Book, submitted the minutes of this Conference as Exhibit 2200 on page 4 of the Rebuttal Book 93. The Document speaks for itself. It is entirely superfluous to put a question to a witness if we have the minutes of the conference before us, because after all these minutes speak for themselves. It can hardly be expected that a witness would know 7 years after the conference took place how many inmates were considered by the

members of Farben.

THE COMMISSIONER: He might know.

Have you any answer to that objection?

MR. MINSKOFF: Yes, a two-fold answer. For one, it is never certain until all the Defense attorneys have made their objections as to which documents in their rebuttal book will remain in evidence, because of the numerous objections that different Defense counsel have raised to the different documents.

Secondly, this man is testifying for the Defense and he testified as to the responsibility of I.G. Farben at Auschwitz in connection with the inmates. Now I think it is important for the Court to know whether this man will also testify as to the request that Farben made at the meetings he attended, for concentration camp inmates.

THE COMMISSIONER: You may make a brief response, if you wish, Dr. Sidel.

DR. SIDEL: If the question is admitted, I would like to suggest that the witness be submitted a copy of these minutes in order that he may refresh his memory before his reply to the question.

THE COMMISSIONER: That is reasonable. Let him have it if you have one.

MR. MINSKOFF: We have no objection to it whatever. It is customary to indicate he does not remember of his own knowledge. He may remember. We have no objection to his seeing the document.

THE COMMISSIONER: What I want to do is to get along with the testimony.

THE WITNESS: I do not remember any figures.

BY MR. MINSKOFF:

Q. Mr. Witness, I show you NI 15148, which is presently Prosecution Exhibit 2200, and I call your attention to the portion where it is marked, "Agreements" and there are a list of agreements that were reached, and the very first one is the one that I am presently referring to, Mr. Witness, where it states that Herr Faust asked for about 1000 unskilled and skilled workers for the current year, if available. I ask you if that refreshes your recollection, Mr. Witness, as to how many were asked for by Mr. Faust?

It is the first paragraph under "Agreements".

A. This request is correct, - 1000 unskilled and skilled laborers. It is correct.

Q. Were asked for by Mr. Faust; is that right?

THE COMMISSIONER: He said it was correct.

A. Yes, by Mr. Faust. We asked for 1000 unskilled workers, but not only inmates. It was just mentioned that we needed unskilled workers. We still wanted to try to get as many unskilled workers from the labor office as possible.

Q. Mr. Witness, what type of workers was SS Commandant Hoess of Auschwitz going to provide you with, other than inmates?

A. Mention was made at this time when the Conference took place that we would need approximately 1000 workers during the first years. We already had 150 and that is why we had to procure some more.

Q. Mr. Witness, during the entire time that you were at I. G.

Auschwitz, did the SS Commandant Hoesl ever supply one worker who was not a concentration camp inmate?

A. Yes, he supplied workers to us who had been released from the concentration camp and who were free.

Q. What jurisdiction did he have over the free workers?

A. The Commandant had no jurisdiction, but the labor office was also there; they cooperated with the Auschwitz concentration camp because I kept urging that I needed workers.

Q. Now the Labor Office was also present at the Conference with SS-Commandant Hoesl at Auschwitz; is that your testimony?

A. No.

Q. Mr. Witness, will you look at the first paragraph of the document before you, where it says, "Purpose of the Discussion"; did you notice in that paragraph the reference that is made to Lerner of Berlin, the inspector of the assignment of concentration camp inmates; now does that refresh your recollection, Mr. Witness, that all that was talked about, and all that was asked for were concentration camp inmates from Hoesl, the SS Commandant in charge of the concentration camp?

A. I hadn't known these men at the time, and I was not particularly interested.

Q. Do you recall, Mr. Witness, at the same meeting that in speaking of the following year's requirements for 1942, requirements, Mr. Faust asked the concentration camp to provide 3000 inmates?

A. Yes, Faust said so.

Q. Now are you perfectly clear that with respect to this 3000,

they were speaking only of concentration camp inmates and no one else?

A. 3000 workers were always being discussed, and that is how I understood it at the time.

Q. Mr. Witness, I refer you to paragraph 2 where it says, "Next Year's Requirements were given as approximately 3000 inmates. The concentration camp will be able to provide this number if the accommodations necessary for increasing the present number of inmates in the camp, 8000, is provided". Now I ask you, does that refresh your recollection as to whether the workers that you were asking for, were solely inmates of the concentration camp?

A. Solely.

Q. Thank you. Now do you recall, Mr. Witness, whether at this meeting there was a discussion concerning the problem involved in getting these inmates for I.G. Auschwitz, and that that problem was said to be, among other things, the necessity for more Capos; do you recall that?

A. No.

Q. Mr. Witness, I call your attention to Paragraph 3 of the document before you, where it says, "It is quite possible to provide additional workers in excess of this total since the camp is to be extended to hold about 30,000 inmates. The decisive factor for the speed at which this can be done, is the procurement of iron and of the necessary number of Capos. These Capos are being selected from amongst the professional criminals and are to be transferred from other concentration camps to Auschwitz". Now, Mr. Witness, does that refresh your recollection

tion of that problem?

A. I cannot remember that now.

Q. All right, thank you. Now, Mr. Witness, there has been much testimony in this case about the procurement of concentration camp inmates as workers, and particularly to the effect that it was all automatic because of a Goering order and a Himmler order. Now isn't it a fact that you were informed as early as March 1941, that the instructions whereby concentration camp inmates were to be employed at the I.G. Farben building site, came from the Gabechem, defendant Krauch?

A. I was never concerned with any details. I was only interested in the acquisition of workers in order to continue with the construction work. I was even partly absent during the meeting. In the anteroom we discussed many other problems with adjutant Krummhagen about transportation of inmates, etc., and about the guarding of inmates. It is possible that this passage was pronounced during my absence. At any rate, I do not remember it.

Q. I am not speaking now, Mr. Witness, of any meeting. I am just asking you a simple question, and I will say, isn't it a fact that as early as March, 1941, you were informed that the instructions whereby concentration camp inmates were to be employed at the I.G. Farben building site, came from the Gabechem, the defendant Krauch?

Now weren't you so informed?

A. No, I didn't know that; I wasn't told it.

Q. Mr. Witness, I show you NI 11643, which is Prosecution Exhibit 2211 in evidence now, -- it is already in evidence. Now, Mr. Witness,

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13905

do you recall stating to the Prosecution that you were informed as early as March, 1941, that it was the Gebachem who gave you instructions that concentration camp inmates were to be employed for the building of the I.G. Farben site?

A. Professor Krauch is identical with the Gebachem, that's true.

Q. The question is, were you informed as early as March, '41, that it was he who gave the instructions for the use of concentration camp inmates?

A. Upon the directive by SS Fuehrer Himmler to Krauch, I was told about it on the 27th of March. For that reason I forgot the Gebachem a minute ago.

Q. Weren't you told by Mr. Faust, and didn't you repeat that to the Prosecution, that he told you that Krauch gave the instructions, and there was no mention of Himmler or Goering in that conversation?

A. Himmler and Goering were mentioned in that conference.

Q. Mr. Witness, isn't it a fact that you all counted on the use of concentration camp inmates and gave very little thought to the employment of other foreigners?

A. Up to March I had not known of any employment of inmates. We expected that particularly in the Auschwitz area, we could be able to obtain a great number of free workers; that could be seen from the fact that in the year before that, at the Buna Plant, Rattwitz, near Breslau, I got my workers mostly from Bialitz, Kattowitz and Teschen. Consequently, I, as a construction manager, also agreed at the time to make my workers available at Auschwitz. The first and last thing at the construction place was at all times nothing but the procurement of

workers.

Q. Yes, now the question I put to you, was in this worry about getting workers, isn't it true that very little thought was given to the employment of other foreigners and you all counted on the use of concentration camp inmates; isn't that true?

A. No.

Q. Mr. witness, I show you NI 11643, which is Exhibit 2211, the same exhibit, and I call your attention to the end of paragraph 5.

A. This paragraph is not to mean that we did not give any thought to the employment of other foreigners, but only deals with the housing situation. You have to know the entire connection. At first this refers to the employment of inmates, and then with the employment of foreigners generally. We of the Farben building management, had our thoughts about the inmates, and about their having to do forced labor, but we did not have any misgivings about prisoners of war and other foreigners, with respect to their treatment, and food, etc. That is what is intended in that sentence. It is very difficult to understand it otherwise.

MR. MINSKOFF: Thank you very much. No further questions.

THE COMMISSIONER: Is there any re-direct, Dr. Flaechsner?

BY DR. FLAECHSNER:

Q. Witness, have you got that document before you which we discussed before, -- the report on the conference with the Camp Commander of Auschwitz concentration camp of 27 March 1941?

A. Yes. What page is it?

Q. If I have understood the testimony correctly, counsel for the Prosecution asked you whether this visit at the time dealt exclusively with the acquisition of inmate workers. Is my opinion correct; is that the question?

A. Yes.

Q. And your reply was: "Solely". Is that correct?

A. Yes.

Q. Well witness, you made your reply without reading the document carefully. Let me draw your attention to the paragraphs 10, 11 and 12; won't you please read these paragraphs?

A. Yes. I must state that the concentration camp was the only place where we could get gravel for the construction. Naturally, we had to turn to the concentration camp or to the Trustees of this, which supplied us the gravel for construction from the Sola and Vistula rivers.

Q. Thank you very much. Now please draw your attention to the paragraph 12. Is it correct that during this conference with the administration of the concentration camp, there were negotiations about the food of the workers active at the construction place, irrespective of whether these were foreign workers, your own workers, or inmates?

A. The general food question was naturally discussed, especially because of the fact the concentration camp would have been in a position to send vegetables, potatoes, and other food to our own workers too.

Q. I see. Is my opinion correct then that the word "workers" which you used in these minutes frequently, does not necessarily mean inmates?

A. No, only general questions were discussed.

DR. FLAEGHNER: Thank you. No further questions.

DR. SKIDL: (Counsel for the defendant Duerrfeld)

Q. Dr. Murr, when you were asked by the Prosecution, you answered that the Labor Office was interlocked with the SS. It is my view that this was very difficult to understand. What actually do you mean by that; what do you mean by the expression "to coordinate" "Kurschalten", which you used? I think the interpreter didn't get the gist of it.

A. As a result of my daily requests to the Labor Office for the acquisition of workers the Branch Office Chief of the Labor Office got in contact with the concentration camp and discussed how the free workers could be made available to me from one part of Auschwitz. That happened later and these workers were not inmates. They were workers who were at Birkenau who were working for the railroad. These were about 50 or 60 men. At that time we had to fight for each one of them.

Q. By this word, "Kurschalten" did you mean that the Labor Office was informed of the order to employ inmates?

A. Yes.

Q. And it is true that the inmates were to be employed when there were no free workers available?

A. Yes.

Q. Yes?

A. Yes.

Q. Now, witness, the Prosecution put to you minutes of the conference which were drawn up on 27 March 1941. You also participated in that conference. This is Prosecution Exhibit 2200, NI 1548. It says under "3" that Capos were to be selected from professional criminals. This is page 5 of the document book. Now, as far as you remember, what sort of people were in that concentration camp in 1941 and 1942?

MR. MINSKOFF: Just a moment. As I recall, the witness testified when the Prosecution put the question to him that he had no recollection of the details and he couldn't answer anything about these Capos made available by the concentration camp. Has his memory been refreshed in the meantime? I just haven't seen it.

THE COMMISSIONER: Are you making an objection to the question?

MR. MINSKOFF: I object to the witness answering the question when he has already said he has no recollection of that particular paragraph referred to.

THE COMMISSIONER: I think he may go ahead and answer it. Go ahead and answer it, witness.

BY DR. SEIDL:

Q. Witness, can you remember what sort of people the inmates of the concentration camp were composed of during the years 1941-42 for the predominant part? Were they professional criminals and anti-social elements? Or what else?

A. One couldn't actually imagine what the Capos were during the first month.

Q. Let me interrupt you. I am not asking about Capos but inmates

generally who were then employed at the construction site. What sort of people were they?

A. Most of them were Poles, not professional criminals; there were actually very few professional criminals; they were mostly political inmates. This could be seen from the fact that they wore red triangles.

Q. Witness, you also signed an affidavit for the Prosecution which is in Book 93 of the Prosecution. This affidavit was already put to you. It bears the number NI-11643, and was given Exhibit number 2211; page 63 of the document book. Mr. Commissioner, I should like to take this opportunity to question the witness on the contents of the affidavit on the part the Prosecution brought out. I hope the Prosecution will not have to object against that procedure. That, Mr. Commissioner, does not mean we are not maintaining our objection as to the admissibility of the affidavit. The Tribunal has stated that this affidavit will be temporarily accepted into evidence and the Defense is to submit a memorandum later on. We have submitted a memorandum to the Tribunal but the Tribunal has not yet ruled upon it. I should suggest, however, that in spite of that the witness should speak on the contents of this affidavit at this time in order that he should not be heard before the Commissioner a second time. If the Tribunal should decide to strike the entire affidavit from the record this cross examination too will be stricken from the record and no further damage will be done.

THE COMMISSIONER: Of course the rule here is, as you know, Dr. Seidl, that the examination shall so far as is practicable, be held within the bounds of the affidavit involved. But, I am interested in

what you say about the possibility of concluding an enquiry as to another affidavit while the witness is on hand and I should like to hear from Mr. Minskoff for the purpose of getting his viewpoint into the record.

MR. MINSKOFF: Mr. Commissioner, in view of the fact that the affidavit is submitted in its entirety for all purposes, not merely to impeach the witness, and not merely for rebuttal, the Prosecution would not object to Dr. Seidl's having this opportunity in examining the witness with respect to the affidavit.

THE COMMISSIONER: I wonder if that would have any effect on the interest of other defendants. Perhaps they might be interested in this document that you are going to examine. Is it Exhibit 93?

MR. MINSKOFF: No, it is a Prosecution Exhibit, I think it is 2211, and that was introduced in rebuttal back into evidence and there may be some objections made to that, as rebuttal evidence. Now, we have also used it in cross examination of this witness. The other defendants do have knowledge of the fact that it is in evidence and that the witness is on the stand today. I agree with you that if they do not have the information it would be a cross examination with respect to today. I am not sure of the further problem that it raises.

THE COMMISSIONER: In view of this situation, if you could conduct a very brief examination on that affidavit, I would be inclined to say let's go ahead with it, if you can keep it brief; if not, I will just say somewhere along the line, "this is just about enough." You may proceed, Dr. Seidl.

BY DR. SEIDL:

Q. Now, Mr. Murr, this affidavit was signed by you on 25 September 1947, and you will find it on page 67 of the document book, 63 of the Prosecution book. Counsel for the Prosecution asked during cross examination whether it was not correct that you had learned from Chief Engineer Max Faust in the second half of March 1943, that there was a directive by the Gebachem from Berlin according to which concentration camp inmates were to be employed at the Auschwitz construction site. You answered this question of counsel for the Prosecution in the negative. I should now like to ask you how can you explain it under paragraph 3, the Prosecution's assertion can be found to be correct and in particular I want to ask you whether you wrote this passage because the Prosecutor put it to you. Can you remember that?

A. Yes, I can remember it.

Q. Well, why don't you explain your answer.

A. On the 27th and 26th of March, I learned from Mr. Faust that inmates were to be finally employed.

THE COMMISSIONER: I wish to say to the witness that you should be careful about not answering counsel's question until he has completed it. Give him a little time. That's all.

Q. Under paragraph 5, you state that inmates during the march from Auschwitz construction site, were shot to death. Now, witness, tell me how often did you yourself observe that inmates in 1941-42 were being shot on that march by the SS?

A. I never saw it myself. I only saw the corpses of the inmates

who were carried along the road. I tried to find out what happened and then I was told that they were shot trying to escape.

Q. When did that occur, witness?

A. That occurred in May and June of 1941.

Q. That was at the very beginning of the time when inmates were being employed?

A. Yes.

Q. How often did you yourself observe that dead inmates were being carried away?

A. Approximately three to four times.

Q. Did that happen at a later period too?

A. Not after 1942; at least I never observed it.

Q. Under paragraph 2, after the second paragraph of paragraph 5, you said that inmates were shot when they went beyond the limits set by the SS. Did you see that yourself?

A. Yes, I once saw myself how a man was shot about 50 meters away from me.

Q. When did that happen?

A. August 1941. It happened when there was a thunderstorm. The skies were cloudy. There was heavy rain. The inmate probably tried to escape, went beyond the limit and then was shot.

Q. On page 4 of the affidavit it says at the end of paragraph 5, I quote, "About the employment of other foreigners one thought very little in general". What, exactly, did you mean by that?

A. I tried to explain it before. What I wanted to say was that

one had no misgivings about the treatment because this employment was managed by Farben and, therefore, any bad state of affairs would be corrected by Farben. There were no bad state of affairs because Farben was able to exert all their influence. The SS, however, did not do so with respect to the inmates. That is what I wanted to say. That is why one did not have to have any misgivings about that. One never had to consider what would happen at the construction place if foreigners were to be employed. It was our endeavor not to employ any inmates at all; from the very beginning, the Farben Construction Management and the Farben Management itself was opposed to it. I repeatedly said so during my preliminary interrogations. I personally was an opponent of the employment of inmates. I was supported in my view by Dr. Ambros and Dr. Duerrfeld.

Q. I am very interested in that, Mr. Murr. You said that already; during your preliminary interrogations you said you were an opponent of employment of inmates and that Dr. Duerrfeld and Dr. Ambros had supported you in that view?

A. Yes.

Q. You furthermore said that it was not desirable to employ inmates. Why didn't you put all that into your affidavit?

A. I said that but the Prosecution probably did not include that in their affidavit. At that time there was a great hurry in signing that affidavit because I wanted to leave and I didn't attach too much value to that because the other construction managers also signed affidavits.

Q. Now, witness, under paragraph 6 you say that it became conspicuous to you in January 1942, that one inmate working for you, an engineer, had disappeared; when trying to find out about it from the Capo, you were told he had gone to the "Ascension Detail". What exactly did he mean by that?

A. This engineer helped us a great deal, particularly working in a technical office which I set up at the initial stages of the construction program. He was a very intelligent man and I always learned from him what the conditions were when Capos supervised the work and when punishments were imposed by them. One day the man didn't turn up. I tried to find out what happened to him from his co-workers. They didn't say a word and I went to the Capos. The Capo only shrugged his shoulders and said "Ascension Detail". This "Ascension Detail" was the penal detail and according to the stories by inmates the way these people went to was the crematorium.

Q. Why was this inmate assigned to the "Ascension Detail"? Were you ever told?

A. He was a leader of the Polish freedom movement. He was a Pole.

Q. Did you ever relate this incident to anyone of the works management? Did you tell Mr. Faust about it?

A. On the occasion of the discussion I mentioned that incident, but I am not quite sure in what circle. I think perhaps I mentioned it to Er. Duerrfeld. This man had done a great deal for us, especially in the meteorological station; he knew about everything; he had considerable freedom of movement as far as it was possible with the SS and one

nice day he disappeared.

Q. Do you know whether the works management, Mr. Faust, or whoever it may have been took some measures in that case, did he go to the Camp Commander?

A. As far as I remember, that case was reported to Commander Hoess.

Q. Why was the works management interested in that? Why did they object to their workers being changed?

A. From the very beginning I was always opposed to having to deal with different people every day. I was opposed to having to deal with different people every day. I was opposed to that because these people had to be trained at the construction place and of course it was much easier for me to work with trained people and I could get the work done much quicker.

Q. Under paragraph 7 of your affidavit you state that in 1942, an inmate was beaten by a Capo who himself was a Jew. Can you remember when that occurred?

A. Yes, that occurred in January 1942. I can remember that exactly because on that very day I came to the construction site and suddenly heard a cry. I rushed to that place and I found how a Jewish Capo was beating his comrade to death. I immediately challenged the Capo and at that moment the SS appeared and told me to get off the construction site. We were not to see these incidents. I reported that to Mr. Duerrfeld and to Mr. Faust and immediately he contacted Hoess by telephone and after that day nobody else was beaten to death -- anyway I don't know of any more instances.

THE COMMISSIONER: Dr. Seidl, how much longer is this line of questioning going to go on?

DR. SEIDL: I think I will be finished in a very few minutes.

THE COMMISSIONER: I was going to call a recess until 3:30 but if you think you will finish in a few minutes, I will wait. Would you rather take it up after the recess?

DR. SEIDL: If the Commissioner would like to take a recess I can continue after the recess.

THE COMMISSIONER: Very well. This hearing will be recessed until 3:30.

(A recess was taken.)

THE MARSHAL: The commission is again in session.

THE COMMISSIONER: You may proceed, Dr. Seidl.

BY DR. SEIDL:

Q. MR. Witness, you have testified that you observed only once, in January 1942, that a Jewish capo killed another inmate. Do you know what the reason for the quarrel was?

A. It was about a cigarette.

Q. Do you know whether this capo was taken to account by the SS?

A. At least he was not there any more the next day.

Q. Did you later, in subsequent years, in the year 1943, observe anything similar?

A. No.

Q. In Number 8 of your affidavit you say that Farben or construction firm foremen, went to the SS, if they had any complaints against the inmates. Were such reports frequently made?

A. As I recall, two or three times. These were not Farben foremen but they were foremen of outside firms.

Q. Did the plant management of Farben demand such reports or were they against them?

A. As I recall two or three times. These were not Farben foremen but they were foremen of outside firms.

Q. Did the plant management of Farben demand such reports or were they against them?

A. In 1941 I was local construction manager and I had this stopped immediately. After consultation with Mr. Faust or Dr. Duerrfeld, and

later Dr. Ambros, these complaints and reports were stopped. On the contrary, we prohibited everything because as soon as we reported inmates, we had to expect that they would be punished in the camp.

Q. In Number 9 of your affidavit you say that in 1944 you heard, at Auschwitz, that in the concentration camp Auschwitz, people were being gassed. Did you learn that exactly or were these rumors? Will you please explain that to the commission?

A. These were rumors and statements of concentration camp inmates whom I knew in 1941.

Q. What did these people tell you, and I want to put to you that in the previous trials it has been brought out quite clearly that in 1941 there were no extermination facilities at Birkenau.

A. I said inmates whom I had known since 1941 told that in 1944.

Q. And what did they tell you, witness?

A. They told me that the crematoria were no longer adequate and they were now resorting to gassing. This is in October or November 1944.

Q. And what did you imagine this was? Just a moment. Excuse me if I interrupt you, witness. You say the crematoria were not adequate and that they had resorted to gassing. I don't quite understand that. Didn't that mean burning?

A. Yes, burning.

Q. And what did you imagine this was? Did you think that people were losing their lives by violence or that many people died in epidemics. Please explain that.

A. The typhoid epidemic did not allow us to assume that people

were being killed by violence. But in November 1944 I learned that people were being killed by violence -- directly picked out from the trains. I learned that from one of the inmates at the time, and it had become known in Auschwitz by rumor.

Q. And you learned that from the inmate in November 1944?

A. End of October -- beginning of November 1944.

Q. Two or three months before the plant was evacuated?

A. Yes.

Q. No further questions.

THE COMMISSIONER: Any further redirect examination?

REDIRECT EXAMINATION

BY MR. MINSKOFF:

A. Mr. witness, that paper you are holding in your hand -- that contains the answers that you were just giving Dr. Seidl?

A. No.

DR. SEIDL: I didn't understand the question. May I ask the prosecutor to repeat his question?

Q. Mr. Witness, weren't you reading all the answers that you gave Dr. Seidl on cross-examination in this affidavit?

A. No. I was not reading. I discussed that this morning, but I was not reading anything.

Q. That paper you held in your hand a moment ago while you were answering the question and reading from it-- doesn't that contain the answers?

A. No. There are no answers on that. I merely wrote down some notes

this morning -- that is all.

Q. That you were reading from on cross-examination?

A. No.

Q. Mr. Witness, you stated in your examination that during 1941 and 1942 inmates were shot on the I.G. premises, but after 1942 that was no longer true. That was your testimony, wasn't it?

A. Yes, I did not see that happen any more.

Q. When did you leave I.G. Auschwitz?

A. 1st June 1943.

MR. MINSKOFF: No further questions.

RE-CROSS EXAMINATION

BY DR. SEIDL:

Q. Witness, you had a piece of paper before you. Are there any notations on there about the questions which I asked you about the affidavit which you gave the prosecution.

A. No.

Q. Does this piece of paper have anything at all to do with the prosecution's affidavit?

A. I just made some notes this morning in case I should be asked any technical questions there about the commitment of labor -- in case that affidavit should be shown to me today.

THE COMMISSIONER: Anything else from this witness?

MR. MINSKOFF: Just one question. I want to make this thing perfectly clear. At last during the last several questions that Dr. Seidl put to you and you were holding this paper up and giving your

answers — weren't the answers to those questions contained in your notes on that paper that you have before you right now?

A. There were only one or two questions.

MR. MINSKOFF: Thank you.

THE COMMISSIONER: Anything further to this witness?

DR. FLAECBSNER: Witness, the text of your affidavit of 25 September 1947 — did you write it?

A. 11 June 1943?

DR. FLAECBSNER: No, 25 September 1947. The one you have just been questioned about by Mr. Seidl. I will give it to you again. Did you write that yourself?

A. No.

DR. FLAECBSNER: Who did?

A. An affidavit given to Mr. von Halle.

DR. FLAECBSNER: Did you mean to say that the text was written by Mr. von Halle? Does your affidavit contain all the answers that you gave to Mr. von Halle in the interrogation?

A. No.

DR. FLAECBSNER: Are essential points omitted?

MR. MINSKOFF: If it please the Commissioner, the witness is before the commissioner and anything that they want to elicit from this witness they could have done so through their own cross-examination and through their own affidavit.

Obviously after four or five interrogations all of them aren't put into the affidavit. The points that are deemed essential by the prosecution

are included. The only thing relevant and pertinent before this commission is whether he signed that and did he read it through and initial it. Not the other things he might have added which we were not interested in.

THE COMMISSIONER: Is this by way of being an objection?

MR. MINSKOFF: I think the line of questioning is improper and object to it.

THE COMMISSIONER: You are objecting to it?

DR. FLECHSNER: May I explain my question, Mr. Commissioner.

THE COMMISSIONER: Yes, please, for the record.

DR. FLECHSNER: In the previous examination we have already learned that the witness, in reality, testified something quite different here from what the affidavit says. Therefore one may perhaps be justified in assuming that in drawing up the affidavit, words were chosen which do not correspond to the actual knowledge of this witness, and I am asking this question to bring this out. I believe these questions are absolutely proper and relevant.

THE COMMISSIONER: I think that is all the explanation that is necessary and I will ask the witness to answer your last question.

Q. I asked you, witness, were essential points which you mentioned in the interrogation, omitted in the affidavit.

A. Essentially it's all right, but sometimes the wording is different. Consequently in cross-examination I have explained and corrected many things.

THE COMMISSIONER: Anything further? The witness will be excused.

THE COMMISSIONER: Who is the next witness?

DR. SEIDL: Mr. Commissioner, the next witness is Rudolf Doemning.
With the permission of the Commissioner, I should like to call this
witness to the stand at this time.

THE COMMISSIONER: Have him brought in, please.

Rudolf Doemning, a witness, took the stand and testified as follows:

THE COMMISSIONER: Mr. Doemning, will you raise your right hand,
state your name and repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the
pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: The witness may be seated.

DIRECT EXAMINATION

BY DR. SEIDL (Counsel for defendant Duerrfeld):

Q. Witness, please give your full name for the record.

A. Doemning, D o e m n i n g.

Q. And your first name?

A. Rudolf.

Q. When were you born, Witness?

A. On the 4th of February 1903 in Ludwigshafen on the Rhine.

DR. SEIDL: Mr. Commissioner, this witness gave two affidavits which
have been put in evidence. These two affidavits are in Book I for the
defendant Dr. Walter Duerrfeld. The first affidavit is No. 102. It is
on page 74 of the Document Book. It was offered as Exhibit 14. The
second document is an affidavit of 20 January 48 and is on page 90 of

Document Book I. Its number is Duerrfeld 435 and was offered as Exhibit 17.

Q. Witness, I should like to ask a few introductory questions first to supplement your affidavit. On page 2 of your affidavit, that in the construction of Camp 4 the experience in the construction of Camps, 1, 2 and 3 was used.

A. Yes.

Q. What experience were you thinking of?

A. In building Camp 4, which was intended as a labor camp for Germany or foreign workers and was No. 4 in the series, we made the distance between barracks somewhat larger than in Camps 1, 2 and 3; also all the barracks were put on solid foundations while in the first three camps some of them were on wooden piles and only later on solid foundations. In this way we managed to make the camp more airy better looking and were able to surround it with landscaped gardens.

Q. Do you happen to remember what workers were housed in Camps 1, 2 and 3?

A. In Camp 1 they were all the people that arrived at the construction site, later only Germans in Camp 2 it was divided in half; one half was for the French and the other half for the Poles. In Camp 3 there were Germans and also the women.

Q. Am I to understand your testimony to mean that Camp 4 for the concentration camp inmates was actually better from the point of view of construction than the camps for the Germans?

A. Yes, it was better than the other camps.

Q. Now, I should like to ask you something else. I assume that you

frequently observed the concentration camp inmates marching into the Farben plant and I should like to ask you whether they made a tired impression or whether they were invalids, incapable of working when they dragged away with them when they left.

A. I was unable to observe that. When they came first from the main camp to the construction site, one could see that they were tired in the evening when they went back, but later, when the camp was near I never observed this any more.

Q. Did you observe any concentration camp inmates at work?

A. Yes I did because I rode or walked across the construction site.

Q. Was the rate of work especially fast?

A. No, compared to that of the other workers, it was actually slower.

THE COMMISSIONER: May I inquire, Dr. Seidl, if the material on which you are questioning this witness — is that contained in the affidavits?

DR. SEIDL: It is generally contained in the affidavit but I am nearly finished with these questions, Mr. Commissioner.

THE COMMISSIONER: I would like you not to cover anything that is covered in the affidavit, because that is purely a matter of cross examination and the affidavit, of course, speaks for itself. You are limited more or less to any additions or corrections.

DR. SEIDL: Yes; no further questions.

THE COMMISSIONER: Is there any other defense counsel who is interested in direct examination of this witness? If not, the prosecutor may cross examine.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, in your affidavit -- that is Document 102 Duerrfeld -- you say that Camp 4, Monowitz, was built under your supervision and was precisely the same as the labor camps constructed for free workers except for the special equipment demanded by the SS;

Now, Mr. Witness, isn't it a fact that the German civilian employees lived approximately 40 men to a barrack?

A. Do you mean office workers or laborers? The number of German workers was intended as 80 men to a barracks.

Q. That is the German workers. Now, how about the German employees, the "Angestellte."

A. The numbers in that barracks differed.

Q. Approximately how many in a barracks?

A. Actually, these barracks were much bigger because they were the Luftwaffe barracks -- for the workers were the RAD barracks, the Labor Service barracks, 26 by 55 by 8.14 meters.

Q. Yes, and how many German employees lived in one of those barracks, in those nice large ones?

A. I estimate that there were 60 to 80, just as in the others.

Q. All right, thank you. Now, Mr. Witness, will you tell the Court how many concentration camp inmates lived in one barrack in I.G. Farben's Camp 4, Monowitz?

A. It was planned in Camp 4 to have 160 men per barrack.

Q. And did at least 160 live in those barracks?

A. As far as I know, yes; there were no more beds. Only 160 to 165 men could be housed in one barrack.

Q. Now, Mr. Witness, will you describe what facilities were provided for your German civilian workers and employees for eating their meals?

DR. SEIDL: I object to this question. The affidavit of the witness Doerning did not mention the barracks for the employees, the "Angestellten." It deals exclusively with Camp 4 and it is obvious that this question has no connection with the contents of this affidavit.

THE COMMISSIONER: What do you say, Mr. Minskoff?

MR. MINSKOFF: Mr. Commissioner, referring to the affidavit which is presently the subject of cross examination on page 75 of the English, the witness says, speaking of the construction of Camp 4, which is what I am questioning him about now:

"After its completion for the accommodation of prisoners" -- that is inmates -- "it differed in its construction from labor camps constructed for the free workers only in the fact that special equipment demanded by the SS was provided" -- and they list three things that the SS demanded and he said they differed in only those respects so that in all other respects they were the same; and now I am questioning him on this fact, whether they were in fact the same or were different in every material respect. This witness has said they are the same and I think the witness is mistaken and I think we are prepared to show it.

THE COMMISSIONER: I don't believe that further argument on this point is necessary and I will require the witness to answer him.

Q. Mr. Witness, you tell the Court what washing facilities --

A. Would you mind repeating the question?

Q. Yes. Will you tell this court what facilities you provided for the free workers for eating their meals?

A. For the free workers we had the dining rooms.

Q. And these dining rooms have chairs and tables?

A. Yes.

Q. Now, Mr. Witness, isn't it a fact that there were no dining rooms provided for the inmates, but instead the inmates at Monowitz had to eat sitting on their beds?

A. I don't know that. I never saw that. In every barracks one quarter of the building was free, three quarters were taken up with beds. But the one quarter was equipped with beds and tables.

THE COMMISSIONER: Ask him another question. He has answered that.

Q. Mr. Witness, isn't it a fact that when you put more than twice as many in the inmate barrack, as you had provided for the other workers' barracks, that there was no room for a dining room?

A. As you can see from the plan which I made, and as I turned over to the SS, all barracks were equipped in this form.

Q. Mr. Witness, do you recall telling a member of the Prosecution on the 28th of August 1947 that the inmates ate their meals sitting on their straw beds?

A. I did not say that.

Q. Mr. Witness, in the barracks, in the barracks provided for German civilian—German employees—did you have small rooms for individual employees or small groups of employees, or was there just one big barrack for all these civilian employees?

A. That depended on the position. There were single rooms or double rooms, and at the most four persons per room. While in the camp for the German workers there were eight, ten and more per room.

Q. And were there any three-tier beds in those rooms?

A. Partly, yes.

Q. In the rooms where you had two and three employees you had three tier beds?

A. No, there were no beds one above the other.

Q. In the rooms where you had eight or more, ten employees, you had three-tier beds?

A. Not three, but double bunks.

Q. How many tiers—

DR. SIEDL: (Counsel for defendant Duerrfeld): I must again object, Mr. Commissioner. All these questions about the equipment of the barracks for the employees has nothing to do with the affidavit of this witness. This witness deals exclusively with the building of Camp IV, and it says nothing about the camp for the German workers or the French workers or the office employees.

THE COMMISSIONER: I think you should indicate for the purpose of record just exactly what part of the affidavit your questioning concerns.

MR. MINSKOFF: This is exactly one sentence, Mr. Commissioner, that I am concerned with. As I mentioned before, the witness has stated in his affidavit and, unexplained, the Court reading this affidavit would believe that Camp IV was exactly the same as the other camps. He has specifically said that it was exactly the same except for what the SS required, which is entirely different, which we will come to later. Now, to show that it is not exactly the same, I am now asking the question as to all the various facilities in Camp IV as compared with the other camps. He speaks of the free workers. Now, free workers are all other free workers --

THE COMMISSIONER: You have made a statement for the record now which the Tribunal will fully understand, I am sure. Now, I would suggest, however, that there is no need to overwork this phase of the affidavit. And I wouldn't be surprised but what you have distinguished the difference that you intend to show sufficiently. Perhaps you might proceed to something else; use your own discretion about that.

MR. MINSKOFF: Mr. Commissioner, I appreciate the suggestion. I think that because of the importance of this witness on the question of barracks, which were under his supervision, given a choice of time, I would prefer to keep the testimony just to the barracks and would eliminate everything else.

THE COMMISSIONER: Go ahead then.

BY MR. MINSKOFF:

Q. Mr. Witness, will you tell the court about what washing facilities there were available to the civilian employees?

A. For the civilian employees there were washing barracks in the various camps, just as in Camp IV.

Q. Did the civilian employees have bathrooms in their own barracks?

A. In the employees' barracks there were washing facilities in the barracks, and showers too.

Q. And was that also true of the barracks provided for other free workers?

A. In the other washing barracks it was the same; there were showers in all of them.

Q. Now, for example, you mention that the experience you gained in Camps No. I, and so on, were used in the building of Camp No. 4. Now, Camp No. I had washing facilities right in the barracks, did it not?

A. No, they were exactly the same in Camp I, Camp II and Camp III; just exactly the same as in Camp IV.

Q. The question is: Was there washing facilities within the barracks at Camp I and Camp II and Camp III?

A. In Camp I--no.

Q. How did persons who lived in Camp I get washed?

A. In the wash barracks. They were exactly the same as the ones in Camp IV. For each nine living-barracks there was one double-wash-barracks and one double-toilet -barreck. One can see from the camp plan how they were arranged.

Q. So that where you had eight or ten persons in one barrack and you had a hundred and sixty in another barracks for inmates, the washing facilities provided were precisely the same, is that your testimony?

DR. SEIDL: I object. The witness did not say that there were eight or ten persons in one building in one camp and one hundred sixty per building in another camp. The record will show that this witness never said any such thing. I demand that this question be stricken from the record.

MR. MINSKOFF: The question can be clarified, if there is any difficulty with it. I understood the witness to say that the German

civilian employees lived sometimes eight to a barrack, ten to a barrack, four to a barrack. Now, is that correct, Mr. Witness, the civilian employees?

A. The German employees lived in other barracks too, where there were more of them together.

DR. SEIDL: Mr. Commissioner, it is obvious that you are confusing barracks and rooms here. The witness said that there were two or four persons in a room; but you have to make a distinction between a barracks which may have fifteen or twenty rooms. Some barracks had forty rooms. It is grotesque to compare a room and a building with forty rooms.

MR. MINSKOFF: I want to thank Dr. Seidl for his testimony, but I thought the witness was the expert in this field. Mr. Witness, where a German employee, or two or three or four employees, had a room, where would those employees wash?

A. In the washrooms.

Q. Was that located in the same barracks where these German employees had their private rooms?

A. That depended... In Camps I, II and III there were the same barracks everywhere, just as in Camp IV.

Q. Mr. Witness, will you describe what toilet facilities were available for the German civilian employees?

A. Exactly the same—I have to say that again and again—

Q. Mr. Witness, I would appreciate your answering the question instead of saying "It is the same," telling what the facilities are, if you know them.

A. Toilet barracks.

Q. So the employees, the German civilian employees, had to go to a separate barracks to go to the toilet, is that right?

A. Well, I must ask you what toilet facilities you are talking about. In Camps 1, 2 and 3 there were exactly the same facilities as in Camp IV, separate toilet barracks.

Q. Well, in Camp IV, isn't it a fact that there were no toilets

whatever in the barracks so that if you wanted to use the facilities of a toilet at night or in wintertime you had to leave your barracks and go outside, isn't that true?

DR. SEIDL: Mr. Commissioner, I object. The Witness has already answered the question. He said that the toilet barracks in Camp IV were exactly the same as in Camp I, Camp II and Camp III. I don't understand the point of this last question.

MR. MINSKOFF: I can show that they are different, Dr. Seidl, if you will just let the witness answer the question instead of telling what you think he ought to answer in advance. I would appreciate it if Dr. Seidl would permit this examination to go on in an orderly fashion. This witness is the expert on barracks, and if he does not know the answers, nobody does.

THE COMMISSIONER: Of course Dr. Seidl has the same right as any other counsel to object to a question. I don't know that he can object to the testimony of the witness except by making a motion to strike. I think Dr. Seidl should make the objection before the question was answered. You may proceed with your examination, Mr. Minskoff.

Q. Mr. Witness, will you tell this court what toilet facilities were available to the inmates of Monowitz?

A. Toilet barracks, just like the ones in Camps I, II and III.

Q. Mr. Witness, may I interrupt? The question was: Will you tell them what facilities were available. This Commission does not know what I, II and III might have had. Now, I am asking you to describe what facilities, what toilet facilities, were available to the inmates of Monowitz concentration camp.

A. The toilet barracks were just like in the other camps—

THE COMMISSIONER: Just a minute. We are wasting a lot of time on this, and perhaps I might help the witness.

BY THE COMMISSIONER:

Q. Witness, I think that counsel is trying to get you to say what

were the facilities themselves, leaving out what might have been true of other camps; just what were there in Camp IV? Now, forget about the other camps.

A. Well, I am thinking of the toilet barracks of Camp IV, which were exactly the same as the toilet barracks in the other camps.

BY MR. MINSKOFF:

Q. What were they like? What facilities were they? If you lived in Camp IV, where would you go if you had to go to the bathroom?

A. They had to leave the barracks and go across the courtyard to the toilet barracks.

Q. And did these toilets have any water in them, or were they just outhouses?

A. No, there were toilet-trenches and they were emptied from time to time.

Q. Now is that the kind of facilities available to the German civilian employees?

A. They were the same as in Camps 1, 2 and 3. In Camp 1 water closets were introduced later, on the demand of the French.

Q. Water closets were never used in Camp 4 were they?

A. No, that was technically impossible because the Camp was lower than the factory, and consequently sewers could not be installed here as would otherwise have been possible.

Q. Now isn't it true that in Monowitz, because of the fact that these barracks were not always built quickly enough to accommodate all of the inmates that kept arriving, you had to build tents for the inmates?

A. Yes, two tents were set up, a big one with 500 men, and a small one with about 250 men, but both of them were equipped with steam heat just like all barracks.

Q. Were there any tents for the German civilian employees provided?

A. No.

Q. Were there any tents for the other free workers provided?

A. There were tents planned for emergency.

Q. Did the workers live in those tents?

A. No. No, there weren't any tents set up.

Q. Now those tents, they also had no toilet facilities and no washing facilities; isn't that true?

A. When the tents were set up, additional emergency washing

facilities were also arranged.

Q. Were the washing facilities open, or were they closed in as they were in 1, 2 and 3?

A. The tents were occupied only in the summer and consequently the emergency washing facilities were in the open air.

Q. Now isn't it a fact that the tents were occupied right through to December -- I believe up until Christmas?

A. I do not know the exact dates.

Q. Mr. Witness, it began in the summer, but didn't it last over five months -- the use of these tents?

A. The tents were taken down. In the summer of 1944 they were to be put up again, but they deteriorated and I was only able to put up a small tent.

Q. Mr. Witness, did you consider that living in these tents with straw on the ground was a safe place to live from fire?

A. No; actually if tents are set up there is just an emergency measure. We also had tents in big demonstrations.

Q. Now, Mr. Witness, will you tell the court, did you personally make the decision to house the inmates in tents in Monowitz; was that your decision?

A. No.

Q. Who made that decision?

A. My boss, Mr. Faust, told me to put up the tents.

Q. And did Faust tell you that he received that order from the construction management through Dr. Duerrfeld?

A. I don't know.

Q. Mr. Witness, are you the one who gave the order to Mr. Ritter, your colleague in Farben, to build the electrically charged barbed wire around Monowitz?

A. No.

Q. Who gave that order?

A. I don't know.

Q. Wasn't that the defendant, Duerrfeld?

A. No.

DR. SEIDL: The witness has already answered the question; he says he doesn't know.

THE COMMISSIONER: That's correct.

DR. SEIDL: It is completely superfluous to ask whether it was Dr. Duerrfeld?

THE COMMISSIONER: That's right.

MR. MINSKOFF: I was merely laying the foundation for impeaching this witness. He produced an affidavit where he says the contrary.

THE COMMISSIONER: He had to answer the question with something.
BY MR. MINSKOFF:

Q. Now, Mr. Witness, was it your idea that 170 inmates should be housed in one barracks in Monowitz, or were you given instructions from other people in I. G. Farben?

MR. SEIDL: Mr. Commissioner --

THE COMMISSIONER: Just a moment.

MR. SEIDL: The witness didn't say there were 170; he said 160.

MR. MINSKOFF: Dr. Seidl is correct.

THE COMMISSIONER: I remember it, 165. Let's take a compromise figure.

MR. MINSKOFF: I am perfectly willing to use for the examination of this witness only, the figure 160.

THE COMMISSIONER: Go ahead.

BY MR. MINSKOFF:

Q. Mr. Witness, the decision — the affidavit says 170, the one from the Defense — your own affidavit, Dr. Seidl.

Mr. Witness, apart from whether it is 160 or 170, was the decision to have that many inmates in one barracks in Monowitz made by you personally, or did you get instructions from other persons in I. G. Farben?

A. That was not my idea, but I got the order to build the barracks camp and so it was built and how many people were housed there was up to the SS.

Q. Well, apart from how many the SS may have crowded in there, over and above 160 or 170, the facilities which were built in the Monowitz Camp were for 160 to 170 in one barracks. Now I am asking you on those instructions was that number made in each barracks in Monowitz; who told you about it?

A. Truly nobody gave me that number, but in building, the barracks I had to calculate on this number in advance.

Q. At this point, Mr. Commissioner, I would like to introduce NI 10930, as Prosecution Exhibit — we haven't the number of the next Commissioner's Exhibit at this point, but we will supply it to the

Commissioner promptly.

THE COMMISSIONER: All right.

MR. MINSKOFF: It is offered in evidence.

THE COMMISSIONER: You are distributing copies, I understand?

MR. MINSKOFF: Yes.

THE COMMISSIONER: All right.

MR. MINSKOFF: Now one final question.

Q. Mr. Witness were you a Sturmfuehrer in the SA?

A. Yes.

Q. That is the rank of Lieutenant, is that right?

A. Without duties, I was only Sturmfuehrer, but I had no other tasks.

Q. Thank you.

RE-DIRECT EXAMINATION

MR. DOEMMING

BY DR. SEIDL:

Before I begin the re-direct examination, I should like to ask the Prosecution what the purpose of this Document 10930 is to have.

MR. MINSKOFF: It is offered primarily to impeach the witness who has made statements now in testimony which are contrary to those in the affidavit.

DR. SEIDL: Then I do not understand why the Prosecution has been cross-examining this witness for three quarters of an hour, if they have an affidavit six pages long, containing everything necessary, according

to the Prosecution, to refute the direct examination testimony of this witness. I object, most decidedly, to the admission of this document and I reserve the right to cross-examine the witness once more on the contents of this document.

I do not know whether or not the Commissioner is able to rule on the admissibility of this affidavit.

THE COMMISSIONER: No, I do not consider --

MR. MINSKOFF: This is an illustration. We asked this witness on whose order 165 persons were housed in these barracks in Monowitz. He has said in his affidavit, "By the order of the management, Walter Duerrfeld, 170 inmates were accommodated in these barracks". Now I do not know of a better way of impeaching a witness than by his own statement which is completely contrary to what he has given us now, and I have no way of knowing in advance what he is going to say on examination. If he tells the truth as he gave it to us, there is no need to try to impeach him. When he changes his testimony, this is for the purpose of impeaching him.

THE COMMISSIONER: Are you going to supply me with a copy of that new exhibit?

MR. MINSKOFF: Yes, your Honor, I will let you have my copy.

THE COMMISSIONER: I should have one if this is going to be offered in evidence. Thank you, you don't know the number of this, of course?

MR. MINSKOFF: I will give you the next number as soon as I find out.

THE COMMISSIONER: Are you through with this witness, Mr. Minskoff?

MR. MINSKOFF: I am sorry, I did not hear you.

THE COMMISSIONER: I say, are you through with this witness?

MR. MINSKOFF: No further questions from the Prosecution.

THE COMMISSIONER: Do you have some re-direct, Dr. Seidl?

DR. SEIDL: I should like to ask the Prosecution whether this affidavit is being offered into evidence, or whether it is merely being offered for identification.

MR. MINSKOFF: It is offered in evidence.

THE COMMISSIONER: I understood it was offered in evidence.

BY DR. SEIDL:

Q. Now, Mr. Witness, in the cross-examination by the Prosecutor, you testified that in the barracks in Camp 4 there were 160 or 170 inmates housed, and I want to ask you, who was responsible for deciding how many concentration camp inmates would be assigned to one of these barracks; was that the plant management of Farben, was that you, or wasn't that the SS organization, the administration of the concentration camp Auschwitz who took over Camp 4?

THE COMMISSIONER: I think, Dr. Seidl, that it may be better for you to repeat your question. There is apparently some of it at least that has been lost.

BY DR. SEIDL:

I can repeat my question, Mr. Commissioner.

THE COMMISSIONER: If you please, Dr.

BY DR. SEIDL:

Q. I should like to know, witness, who was responsible for deciding how many inmates were to be assigned to barracks in Camp 4; was that up to the Plant Management of Farben; did you have the authority to decide that, or was the administration of the concentration camp Auschwitz responsible for that, which later took over Camp 4?

A. I only built the camp. There were not only four camps built, but I was working on as many as ten, and to see how we would manage with the camps and the number of barracks, this figure was decided on, as I hold in my affidavit. Actually, assigning the people to the barracks, was up to the SS. We had no influence whatever on that.

At the moment when the camp was built I turned it over to the SS and the SS equipped it and assigned the people to the various barracks.

Q. No. 9 of the affidavit which the Prosecution has just introduced under NI 10930 reads, and I quote, "By order of the Plant Management (Walter Duerrfeld) the number of men for one barracks was 165 as against a number of 80 persons in the German camp. (In other words, Monowitz was 100 hundred per cent over-crowded) and the barracks of the foreign workers camps were 100 persons each." Before I ask anything further, witness, I should like to know, did you write this sentence in No. 9 or was it written by the interrogator?

A. I did not write it.

MR. MINSKOFF: In every affidavit that has appeared before this court no witness has drawn his own affidavit, dictated it or typed it. Of course some one draws it. The question is irrelevant as he has read it and signed it.

THE COMMISSIONER: He has answered that he didn't write it. Ask another question, Dr. Seidl.

BY MR. SEIDL:

Q. Do you see any discrepancy between your testimony here and what you told the Prosecution in their examination?

A. Yes, what I just said I mention these figures for all the facilities and I discussed these figures with my boss engineer Faust. The number of people to be assigned to the individual barracks was up to the SS.

Q. Did you discuss this matter with Dr. Duerrfeld at all?

A. When he visited the barracks camps once, yes. Again in the same form as to what we needed for the overall planning.

Q. At this time when you talked to Dr. Duerrfeld, Camp 4 was

built already?

A. It was being built.

Q. You also testified that in the barracks in Camp 4 the beds were in tiers?

A. Yes.

Q. Was that an order of Farben or was that order by the SS?

A. I have already said that was by order of the SS because who was to live in these barracks and how they were to be equipped was entirely the business of the SS.

Q. You also testified that the distribution of space within the room of the barracks was somewhat different in Camp 4 and 1, 2 and 3 and other camps?

A. Yes.

Q. You said one-quarter of the building was intended as a day room?

A. Yes.

Q. Did this deviation in the distribution of the room arise from a decision of Farben or SS?

A. That was a decision of the SS. We of Farben construction management had nothing to do with equipping it. We merely had to build the buildings. The SS had to assign the people to them.

Q. I should like to ask you now, where does 160 or 170 come from. Did you give this figure to the Prosecutor or did the Prosecution mention the figure to you?

A. I mentioned the figures.

Q. I am asking you because it says 160 and then 165 and again 170.

A. No, 160. I said 160. 80 to 120 and 160.

Q. Witness, who supplied the beds for the barracks in Camp 4.

A. The concentration camp; the equipment works.

Q. You mean the Deutsche Ausruestungswerke, G.m.b.H.

A. Yes.

Q. Is that an enterprise that had its work shops in the concentration camp Auschwitz.

A. Yes, that was a firm that had its work shops in the concentration camp and the Farben plant management ordered furniture from them many millions of marks.

Q. And the construction and supplying and setting up the furniture and the distribution to the barracks?

A. The SS did that because we had nothing more to do with the camps as soon as the buildings were built.

Q. You were asked about the tents. Were these tents intended to be permanent or were they just temporary?

A. Just temporary.

THE COMMISSIONER: Dr. Seidl, the tempo of this examination is quite beyond the facilities. Try to handle it a little more slowly and Mr. Witness, wait until the question is completed before you attempt to answer it and then we will have less confusion. Go ahead, Dr. Seidl.

BY DR. SEIDL:

Q. Witness, do you know anything about the fact that these tents were set up because there was a big epidemic in the concentration camp and that these tents were to be used for quarantine so to speak?

A. No, I did not know that.

Q. Did you ever get a copy from the Prosecution of the affidavit which has just been put into evidence by the Prosecution, the number of which is NI 10930?

A. No. I asked for a copy of it but I was refused one.

Q. Was this handed to you for your signature in final copy?

A. Yes.

Q. You say in No. 3 of this affidavit, and I quote, "I observed that the inmates sometimes had to carry cement sacks sometimes on the double." Now, what was the distance that these people had to carry cement?

A. Ten meters at the most in the building. Perhaps 20 to 30 meters on a construction site, but I don't want you to misunderstand when I say "on the double". Anyone who is carrying a heavy load wants to put it down as soon as possible, and, besides, this rapid word, and this running pace by the inmates may perhaps be explained by the fact that when I.G. people or supervisory agents approached, the Capos drove the inmates to work faster but that is only because of the Capos.

Q. And in your affidavit you also say that in the beginning the Capos had sticks with which they beat the concentration camp inmates. Did you volunteer this information or was it put to you?

A. I was asked whether that was true and I said yes, but we of Farben, if I may say so, saw to it that this was stopped on our construction site and the SS did put a stop to it. This abolition of the beating was something that was accomplished by our plant management.

Q. Do you know that the plant management objected to the SS when any

Capos or foramen or Farben meister committed an infraction?

A. Yes.

Q. You also say that later the concentration camp inmates were given wooden shoes and in view of the distance which they had to cover on foot this is considered in adequate footwear. Now is it not true that Camp 4 was directly near the plant area right on the fence, and that there was no great distance at all to be covered?

A. That was accomplished by our plant management; that this camp was put there so that these people would not have that long road to cover to get to work.

Q. You also say that many of the concentration camp inmates looked undernourished. Now did these people that you are thinking of, look worse than the average worker on the streets today?

A. No, on the contrary, the workers on the streets here look worse.

MR. MINSKOFF: I move that that answer be stricken. There is nothing in this court as to how the workers here appear, or as to how these people looked here is irrelevant.

THE COMMISSIONER: The answer is in the record. Lets go on.

BY DR. SEIDL:

Q. You say many of the inmates looked undernourished. May I conclude that others looked well nourished?

A. That depends on the individual's constitution and I told the Prosecution that. You see people look good and people that look bad. That doesn't depend so much on the food but on the individual's constitution and that is what I meant here.

Q. Well, why didn't you put that in the affidavit?

A. I didn't write the affidavit. Mr. von Halle wrote it.

Q. You also say that inmates were shot on the Farben construction site when trying to escape. Did you yourself ever see an inmate being shot while trying to escape?

A. I said nothing about shooting. I told the Prosecution that I did not see any inmate run into the electrical fence and I didn't see any inmate being shot. I was never an eye witness.

Q. You know that only from hearsay?

A. Yes, and I told them that.

Q. Were these isolated cases or did they happen frequently?

A. Those were isolated cases.

Q. You also say, and I quote, "In the evening when the prisoners went back to the camp I saw that some were being carried by their comrades because they couldn't walk from exhaustion." How often did you see that?

A. In isolated cases.

Q. And when did that happen?

A. After work, when some of the people were over-tired.

Q. Was that in the beginning, 1941 and 1942?

A. Yes, that was in the beginning when they still had to march back to the concentration camp. That was automatically stopped when the people moved into the camp next to the factory.

Q. What was the distance between the concentration camp Auschwitz and the Farben factory?

A. A few kilometers.

7 May ~~AmP-27-7-Love~~
Court VI Case VI Commission

Q. Then it is easily imagined that the people weren't able to walk because of the distance?

A. Yes.

Q. You also say "Dr. Duerrfeld again and again gave instructions that Farben employees were not allowed to beat inmates". Did you yourself ever attend any conferences where Dr. Duerrfeld gave such instructions?

A. No, Duerrfeld's instructions were given to me by my boss, Engineer Faust.

Q. Was it generally known in the Farben plant that the management, under all circumstances, wanted to prevent beating of prisoners or other workers?

A. Yes, there were posters announcing that, and it was announced at meetings and conferences too.

Q. Under No. 4 of your affidavit you speak of the evacuation of Jews from the neighborhood of Auschwitz. Did Farben have anything to do with this?

A. No.

Q. Did you yourself observe anything in connection with this evacuation?

A. No.

THE COMMISSIONER: Dr. Seidl, I have an idea that the sound film is about to run out. How much longer will you continue?

DR. SEIDL: I have no choice but to go through this affidavit paragraph by paragraph and perhaps it is better if we interrupt now.

THE COMMISSIONER: I recognize that you are almost under the necessity of cross-examination under a considerable number of paragraphs here and it will take some time, and inasmuch as it is late now and the

sound film is about exhausted I think we should conclude this hearing and call another to complete the examination as soon as we can find a courtroom to conduct it in. So I'll recess this hearing until further notice.

Official Transcript of hearing before a Commissioner for Military Tribunal VI, Case VI, in the matter of the United States of America against Karl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 8 May 1948, Commissioner James G. Mulroy, presiding.

THE MARSHAL: The Honorable, the Commissioner of Tribunal VI. The Commission of Tribunal VI is now in session. God save the United States of America and this Honorable Commission.

There will be order in the court.

DR. TRABANDT (Defense Counsel for defendant Duerrfeld): Mr. Commissioner, the re-examination of the witness Doemming had been interrupted yesterday. May I ask that the Marshal call the witness Doemming into the witness stand in order that Dr. Seidl may continue his reexamination? Dr. Seidl will appear.

THE COMMISSIONER: I'll have the witness brought to the stand immediately, Counsel.

First though, Mr. Marshal, will you report as to the defendants present for the record?

THE MARSHAL: May it please the court, the defendants Duerrfeld and Ambros are present in the court room.

THE COMMISSIONER: Will you please produce the witness Doemming who was here yesterday?

What's that man's name? Doemming, isn't it?

DR. TRABANDT: Rudolf Doemming.

THE COMMISSIONER: Is the Defense ready to proceed?

RUDOLF DOEMMING - Resumed

CROSS EXAMINATION - Continued

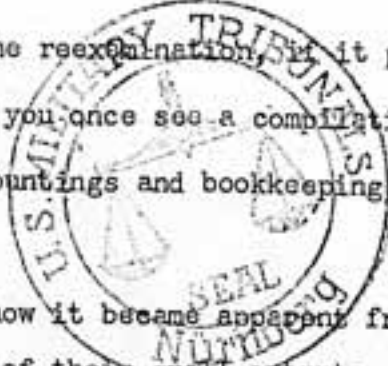
BY DR. TRABANDT:

I shall begin with the reexamination, if it pleases the Commissioner.

Q. Mr. Doemming, did you once see a compilation of the inmate employment with all its accountings and bookkeeping, etc?

A. No.

Q. Then you don't know it became apparent from this compilation that the inmates, because of their small outputs, proved to be expensive



labor?

A. No, I don't know that.

Q. You gave an affidavit to the prosecution and did you mean to say by paragraph 2 that Farben liked its inmates because they were cheap labor?

A. Would you show me paragraph 2 once?

THE COMMISSIONER: I should like at this time to call the attention of the witness to the fact that some interval will have to be left between the question and answer. That will afford us some chance to carry out this proceeding in an orderly way and will be simpler for everybody.

You may proceed, Dr. Seidl.

BY DR. SEIDL:

Q. Witness, yesterday I put to you a number of statements which are contained in your affidavit which was submitted by the prosecution as 10930. Under paragraph 6 of that affidavit which was drawn up by the Prosecution, you state that Camp IV had initially been provided as a civilian camp for free workers and that only later it was used as a concentration camp. My question to you now is, did the works management of Farben ever consider Camp IV as a concentration camp or did they consider it as a labor camp?

A. They considered it as a labor camp.

Q. Why then didn't you use the expression "labor camp" in your affidavit? Why did you use the term "concentration camp"?

A. The expression "concentration camp" was put into my affidavit because the inmates were housed in that camp and, so to speak, lived in the branch camp of the main camp.

Q. Camp IV was one of approximately forty branch labor camps which belonged to the Concentration Camp Auschwitz, is that correct?

A. Yes.

Q. Under the same paragraph you state that the electrical fence around Camp IV was erected by the electrical department of Farben. I should now like to put to you that we have an affidavit available of the

firm of Gleiwitz which actually erected this electric fence. It is an electrical firm of Gleiwitz which has nothing to do with Farben. In view of that fact, will you still maintain your testimony?

MR. MINSKOFF: It shouldn't be necessary repeatedly to ask counsel not to testify for the witness. Questions can be put to the witness and answers elicited from him. Dr. Seidl invariably testifies for the witness in a manner to direct his answer and I object to that line of questioning.

THE COMMISSIONER: Dr. Seidl, don't you think your question was somewhat along the line of testifying personally?

DR. SEIDL: The Prosecution has submitted that affidavit into evidence and it is naturally my right to cross examine the witness about it. It is a generally recognized practice that within the frame of cross examination one may put matters to the witness and in particular draw the witness's attention to facts which may refresh his memory, but it is, in the final analysis, a matter for the witness to state whether he remembers the fact or not.

THE COMMISSIONER: Well, I think Dr. Seidl, we can depend on you to distinguish between testimony and proper cross examination and I'll ask you to discriminate rather carefully hereafter, if you please.

BY DR. SEIDL:

A. With respect to the electrical fence I can only reply that the SS gave Farben an order to surround the camp with the fence. The erection of that fence itself was always done by firms and never by the Farben enterprise itself. I think that that will answer the question.

Q. And then it was the SS who demanded that the camp be surrounded by an electrical fence?

A. Yes.

Q. Under paragraph 12 of your affidavit you state that the Farben works management rejected to the SS to erect additional hospital barracks at Monowitz. Furthermore, you state two or three wooden barracks were

provided for Farben for that purpose. After Camp IV had been constructed which had 56 or 60 barracks at the end, was it a matter for the SS to determine the use of the individual barracks at their own discretion or was an agreement of the Farben management necessary?

A. Once the camp was transferred by us, it was a matter for the SS how they divided that camp.

Q. Under paragraph 13 you state that you heard that Russian foreign workers were beaten by the foreman?

A. Once or twice I heard about that when I visited the camp.

Q. Do you know why the camp leader Pillich was beating the inmates of that camp? Did they resist?

A. I can give you no information about that.

Q. You yourself never observed anything like that?

A. No.

Q. Under paragraph 14 you deal with the so-called labor correction camp and you say that so-called loafers were put into that camp. Now, witness, were loafers sent into that camp by the Farben works management or were they sent to that camp by the Reich Trustee of Labor in connection with the labor authorities?

A. I don't know how people were sent into that labor correction camp. It was merely my task to divide these camps from the others in order to bring about a separation between the main camp and the labor correction camp.

Q. Yesterday you testified and you also said something about it in your affidavit that the inmates were very exhausted after their march. Do

you mean the march back into the concentration camp Auschwitz at the time when Camp IV was not yet used by the inmates?

A. Yes, that was between 1941 and 1942 when the inmates still had to march from the main camp to the construction site. Usually, during the march back, they were exhausted.

Q. And at a later date could you still observe such matters?

A. I couldn't then observe it because then the camp was in close vicinity to the work place.

Q. Under paragraph 7 of your affidavit you deal with the two tents which have already been mentioned which had been constructed in Camp IV. Did you, in your capacity as architect, have any misgivings about these two tents as being inflammable and that they could not withstand a fire?

A. Yes. Inmates might have smoked and there was a possibility that an accident could occur. The fire police, however, had equipped the camp with necessary water and other fire fighting equipment and then the tents were only set up temporarily.

Q. And how about the humane point of view which was mentioned in your affidavit? Did you think that housing inmates in tents is something particular?

A. I voiced my misgivings because I thought that if human beings were to live in tents for a number of years it wouldn't be very pleasant for them from a humane point of view, but since it was only a temporary measure I made no remark about it.

Q. Under paragraph 8 of your affidavit you deal with the food given to the inmates. You state the following, and I quote: "I assume that the inmates ate their food while sitting on their beds." How did you arrive at that assumption?

One moment.....

Did the interrogating officer put that fact to you which led you to a conclusion to that effect, or is that a conviction which you can no longer maintain at this time.

A. When I talked to the Prosecution about that we discussed this question. I said that the food was taken from the kitchen in buckets and then sent into the various barracks. When there was nice weather, the inmates sat outside on the grounds and sometimes, of course, they were also inside the barracks. Whatever I saw, at any rate, I could only see from the outside of the camp. Mr. von Halle merely assumed that the inmates were eating the food while sitting on the bed.

Q. But yesterday you stated that a part of the barracks was segregated as a so-called day room?

A. Yes, and that becomes apparent from the map which I drew up. All barracks which I handed over to the SS were always arranged in the following way: Three-fourths of the barracks were the bed rooms and one-fourth was a day room, and then there were always two or three cabins for the capos. I don't know of any other division of a barracks for the concentration camp.

Q. Well, couldn't the inmates eat in their day room?

A. Well, that would have been quite possible.

Q. But in your affidavit you stated that you assumed that the inmates ate their food while sitting on their beds and I now want to ask you whether the contrary assumption is more obvious, namely that the inmates ate their food in their day rooms?

A. I think that the moment the inmates received the food they just went all over the place and if one or the other couldn't find any room in the day room, then he stayed outside or to his bed where he ate his food.

Q. Wasn't there a kitchen in Camp IV to which a dining room was affiliated?

A. Yes. This was the mess hall at first for the SS guards who, at the beginning, were housed close in the camp itself and, at a later date, this room was made available to the inmates.

Q. I should now like to revert to paragraph 12 of your affidavit where you mention the hospital barracks. You state that Farben refused to construct more hospital barracks. Aren't you confusing that with the demand by the SS who wanted to construct various buildings for penal purposes and that was refused by Farben, wasn't it?

A. I heard of this demand made by the SS to Farben, Chief Engineer Faust told me that these demands were rejected by the works management and I also represented that view in my affidavit.

Q. Don't you remember that the SS Standartenfuehrer Maurer of the concentration camp inspectorate in Berlin himself rejected these demands by the concentration camp Auschwitz?

A. I know the name Maurer but I don't know anything about his refusal to that demand. I never attended these meetings.

Q. You testified that after Camp IV was constructed and after it was handed over to the SS, the administration was exclusively in the hands of the SS. In order to leave no doubt about this matter, I want to ask you whether medical care of the inmates belonged to that?

A. Yes.

Q. You testified before that you heard once or twice that the camp leader Pillich was beating foreign workers. You also testified that you didn't know his reasons for doing that. Did the works management tolerate any physical punishment of workers or did they issue any general directives referring not only to inmates but quite generally to all workers within the Farben plant of Auschwitz?

A. It was generally known at the construction place that workers of any kind were not to be beaten.

Q. You under paragraph 14 said that so-called loafers were transferred into that labor correction camp. You then explained the conception of loafers or Arbeitsbummelanten - that these were Germans who, for instance, stayed away from their work and then you go on to say - and this I want to put to you - that these were workers who didn't work in the way it was demanded. Do you know of a single case where a foreign or German worker was placed into the labor correction camp because he didn't work in the way as it was demanded by his firm or by the works management?

A. No, in this form I don't know of any such case. Would you be good enough to understand the expression Arbeitsbummelanten or loafer in the way I communicated it to the Prosecution at the time? These were workers who were absentees from their work, who left their work place

for two or three days, who stayed in the vicinity of the camp and then returned to the construction place. I don't know anything about the selection of those people who were placed into the labor correction camp.

Q. Am I to understand your testimony to mean that the last addition in your affidavit, which refers to the transfer to the labor correction camp because of too little work, was added by the Prosecution?

A. Yes, I never mentioned that addition whilst I was interrogated.

DR. SEIDL: Mr. Commissioner, I have no further questions to put to this witness.

THE COMMISSIONER: Is there any redirect examination?

As I understand it, Mr. Minskoff, Dr. Seidl has been cross examining this witness on the Prosecution exhibit, the number of which you have not yet given me. Did you ascertain that number yet yesterday?

MR. MINSKOFF: I communicated with Mr. Luchan's office about that and they were supposed to inform the Commissioner. I don't know whether that has been done or not.

THE COMMISSIONER: As I was saying, Dr. Seidl has been cross examining on this affidavit and you will now have an opportunity to carry on redirect.

You may proceed with your redirect.

REDIRECT EXAMINATION

BY MR. MINSKOFF:

Thank you sir.

Q. Mr. Witness, you can read German, can't you?

A. I assume so.

8 May-M-2-5-Leonard (Int. Remler)
COURT VI, CASE VI, COMMISSION

Q. You aren't sure whether you could read and understand German?

A. Being a German, I probably do read German.

Q. Now, the affidavit which was the subject of discussion - you read that affidavit, did you not, before you signed it?

A. Yes.

Q. And did you make a number of corrections on the affidavit?

A. Yes.

Q. And did you initial each correction?

A. Yes.

MR. MINSKOFF: Thank you. No further questions.

THE COMMISSIONER: Is there any further recross examination by any of defense counsel?

(None indicated).

In that case, the witness will be excused.

Dr. Seidl?

DR. SEIDL: Mr. Commissioner, with the permission of the Commission, I should like to ask the witness Faust to take the witness stand. The first name of that witness is Max.

THE COMMISSIONER: Is he German?

DR. SEIDL: Yes, he's a German.

THE COMMISSIONER: Bring the witness Max Faust in.

DR. SEIDL: Mr. Commissioner, I have just learned that the witness is not yet here. We asked him to appear before the court room at 9:30 this morning. He may have made a mistake because the court rooms have changed. In the meantime, we shall try to bring the witness here as

quickly as possible. We'll try to find him somewhere in the court house.

THE COMMISSIONER: Was he notified of the time?

DR. SEIDL: He was told that the examination would commence at 9:30 in the morning.

THE COMMISSIONER: I'll declare a recess for the purpose of finding the witness and you will please let me know when that is done.

So, this hearing is recessed until further notice.

(A recess was taken.)

THE MARSHAL: The commission is again in session.

THE COMMISSIONER: Mr. Marshal, will you bring in the witness Max Faust. Mr. Witness, you will raise your right hand, pronounce your name --

THE WITNESS: I, Max Faust,

THE COMMISSIONER: Repeat this oath after me -- I swear by God the Almighty and Omniscient that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath.)

You may be seated. Mr. Faust, have you testified previously at any of these hearings?

THE WITNESS: Yes, last summer during the Prosecution's case. In addition I have made a number of affidavits for the Defense.

THE COMMISSIONER: Thank you, Mr. witness. I wanted to call your attention to the lights in front of you. The yellow one signifies, when it comes on, that you are talking too fast and the other one, the red light, if you see that flash on, then you must stop talking until you have been notified to go ahead. You are permitted to answer all questions fully, but it is requested that you make your answers as brief and responsive as possible to the questions. In other words don't volunteer any information outside of the scope of the question. If the question is incomplete, counsel will undoubtedly ask you other questions which will develop the theme he intends to inquire about. You may now proceed, Dr. Seidl.

DIRECT EXAMINATION

13965

BY DR. SEIDL:

Q. Witness, for the record, please state your full name again and the date you were born.

A. Max Faust, 5 April 1891.

Q. Mr. Commissioner, I should now like to indicate the affidavits which the witness, Max Faust, has given us, and which are in the various document books of the defendant Duerrfeld. The first affidavit is in Book 3, page 8. It bears the number Duerrfeld 958, and was offered by the Defense as Exhibit 42.

THE COMMISSIONER: 42?

DR. SEIDL: Yes. The next affidavit is also in Book 3 of the Duerrfeld Document Books on page 13. It bears Duerrfeld Number 481, Exhibit 43. The third affidavit is also Book 3 of Duerrfeld, on page 18 of the document book. It bears Number 480, Exhibit Number 44. These are the affidavits contained in Book 3 of Duerrfeld.

THE COMMISSIONER: I assume, Dr. Seidl, that you will examine on these documents separately — that is you will not go from one exhibit to another — is that correct? You will examine first on 42 and then on 43 and then next on 44.

DR. SEIDL: Mr. Commissioner, personally I shall not at all question the witness Faust in connection with these affidavits. We shall leave that to the Prosecution, if they want to put any questions to the witness from these affidavits. I would suggest, too, that we treat one affidavit after another in order that there be no confusion and then we would also be able to tell whether any one question is still within the scope of the

affidavit.

THE COMMISSIONER: That's what I had in mind, Dr. Seidl.

DR. SEIDL: I shall now also indicate the other affidavits which were submitted by the witness, Max Faust, and which are contained in other document books. The other affidavits are in Book 14 of the document book for Duerrfeld. The first affidavit in this book is on page 21. It is an affidavit dated 11 December 1947 bearing Duerrfeld Number 960. It was submitted as Exhibit 347. The next document is in Book 14 on page 75. It is an affidavit of Max Faust dated 24 September 1947. It bears Duerrfeld Number 474, Exhibit 145. There is only one more left for me to identify which is in Book 10 of the Duerrfeld document books. It is the first affidavit in that book on page 1. It bears Duerrfeld Number 1114. It was offered as Exhibit 240. These are all the exhibits which were offered by the Defense on behalf of Duerrfeld from that file. Before turning the witness over to the cross examination I should like to put one supplemental question to him. Mr. Faust, you attended the conference which took place on 21 March 1941 in Berlin with Obergruppenfuehrer Wolff. You also attended the conference with Commandant Hoess about the employment of inmates in Auschwitz on 27 March 1941, is that true?

A. Yes.

Q. Now, with what type of persons were you concerned who were to go to the Auschwitz Plant to work as inmates — were they political prisoners or were the majority of them criminal elements, professional criminals, anti-social elements, people in security custody?

A. Dr. Seidl, you referred to these two conferences. During these

two conferences the type of persons who were to be assigned to us as workers were not discussed. According to the impressions which I gained later during April, May, June, and during my temporary visits to the construction site, I came to the conclusion that these people were mostly criminals. To a lesser degree they were political prisoners.

Q. Is the proportion of political inmates on the one hand and the criminal inmates on the other hand, the same, or did it change in the course of the years?

A. It did change in the course of the years. Later there were more political inmates.

DR. SEIDL: I have no further questions to the witness for the moment.

THE COMMISSIONER: The Prosecution may cross examine.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, you just testified that in the early days when you first discussed the procurement of inmates to work for I.G. Auschwitz, it was your impression that most of these concentration camp inmates were not Jews or political prisoners, but were criminal elements. Now, would you explain, Mr. Witness, why it was that at this 27 March meeting it was specifically discussed that in order to obtain the Kapos -- not the workers but the Kapos -- you would recruit the criminal elements from all other concentration camps and bring them down to Auschwitz?

DR. SEIDL: I object to this question. It becomes clearly apparent from the minutes of this conference that neither Farben or this witness were to procure any of the Kapos and that this was done exclusively by the

SS and its organization.

MR. MINSKOFF: I suppose there is no way of stopping the counsel from testifying for the witness. It would be very simple to make an objection if they had grounds for objection, without suggesting to the witness as to how he might answer the Prosecution's question. The meeting I am referring to, Mr. Commissioner, is NI 15146, and it's precisely the same meeting which a few moments ago Dr. Seidl referred to on his direct examination. Now, Mr. Witness, in this meeting the discussion was held between you and Duerrfeld and the SS about the procurement of concentration camp inmates to work for I.G. Auschwitz, and one of the biggest stumbling blocks in getting enough inmates from Auschwitz was the fact that you would need enough Kapos to guard these inmates and work with these inmates, and the meeting which you attended decided that the decisive factor for the speed with which this could be done — that is obtaining these necessary Kapos — would depend upon how fast these Kapos could arrive, and the following sentence says: "These Kapos are being selected from among the professional criminals and ought to be transferred from other concentration camps to Auschwitz." Now, Mr. Witness, if the inmates themselves in Auschwitz were criminals, why was it necessary to bring them from other concentration camps to Auschwitz to be Kapos?

DR. SEIDL: Mr. Commissioner, I must object again. I would suggest that in the same way as yesterday the minutes are put to the witness to which the Prosecution is referring now. It is in Book 93 of the Prosecution, Exhibit Number 2200. It becomes apparent from paragraph 3, very clearly what it is all about.

MR. MINSKOFF: I object now to Dr. Seidl saying the record shows. The document speak sof itself and if he wants the witness to see the document I have no objection to that.

DR. SEIDL: If the Prosecution thinks that the document speaks for itself then they have no need to put any question to the witness about it.

THE COMMISSIONER: I think we have argued this matter long enough now. This is the way I look at it. You have certain material in this affidavit. If you wish to question the witness on that you may offer him the exhibit for his scrutiny and then propound your questions on that basis.

MR. MINSKOFF: Mr. Commissioner, this witness has attended a meeting and we are now questioning him about that meeting. If he indicates that he has forgotten what occurred at that meeting I'd be happy to refresh his recollection by showing him the minutes of that meeting. Until he has so indicated it's hardly necessary to show him any minutes. He has just answered the question put to him by defense counsel without any help from any documents. He recalls the meeting and I'm asking him about the very same meeint. May I ask him about that very same meeting. It hasn't changed in the last few minutes.

Q. Now, Mr. Witness, can you explain why it was necessary to get professional criminals from other concentration camps and bring them to Auschwitz to act as Capos if the inmates at Auschwitz were already professional criminals?

A. In that connection, I must tell you that I don't remember at all all these details nor this conference. You must take into consideration that that was more than seven years ago. I don't remember now that the employment of workers was to be delayed by the fact that there weren't enough Capos available. That is completely new to me, at present.

Q. Thank you. Mr. Witness, in your affidavit, Duerrfeld Document No. 478—I believe that is the last document in Duerrfeld Document Book No. I — it appears on page 105; 106 or 107 is a chart — Mr. Witness, you refer in this chart to the difference of responsibilities of the inmates in the camp — that is, Monowitz — and on the building site, I.G. Auschwitz and you state that the charts which bear your signature are based upon the agreements between the SS, and the I. G. and the construction companies.

Now, Mr. Witness, isn't it a fact that all the agreements which existed concerning inmates assigned to I.G. Auschwitz were agreements made between I.G. Farben and the SS and that none of these agreements were made directly between the SS and the construction firms?

A. Your question is whether any agreements were made between the SS and the firms? I must answer that question in the negative.

Q. Thank you. The agreements that were made were made between I.G.

Farben and the SS. Isn't that correct?

A. Yes.

Q. Now, Mr. Witness, looking at your chart, I notice that you have fields of responsibility for the inmates in camp 4, Monowitz, and also fields of responsibility for inmates in the plant, I.G. Auschwitz. Now, I don't quite understand from this chart where the responsibility was for obtaining the concentration camp inmates that you are talking about in this chart. Whose responsibility was that?

A. For the procurement of the workers the SS naturally was responsible.

Q. Perhaps, you didn't understand the question, Mr. Witness. Who obtained these workers from the SS to work at I.G. Auschwitz?

A. I didn't quite understand your question?

Q. Didn't you yourself often attend conferences and meetings with the SS for the procurement of concentration camp inmates to work at I. G. Auschwitz?

A. Not for the procurement. We only discussed the making available of workers to the plant, from the concentration camp to Farben and did attend such conferences but the actual procurement of workers was never the subject of discussions.

Q. I am not sure that that makes any distinction in the English language; it might in the German.

A. If you go down to the SS and ask that they make workers available to I.G. Farben Auschwitz, that is what I am talking about.

Q. Isn't it a fact that you went down to the SS and had conferences

and meetings with them and stated your requirement of workers, of concentration camp inmates, of 1,000 for one period and 3,000 for another period?

A. The SS as well as Farben had received this order from the highest Reich authorities to employ inmates for the construction of the Buna plant. It was natural that both these partners would meet in order to discuss this employment.

Q. Isn't it a fact, Mr. Witness, that the order to use concentration camp inmates in the building of I.G. Auschwitz came not from the SS but from Gebechem, defendant Krauch, in this case?

A. I only know Krauch's letter to Farben in which Krauch refers to an order by Goering. I, therefore, have to assume that Krauch had also received this order from Goering.

Q. Did you know, Mr. Witness, that it was Krauch who asked Goering to issue this order?

A. No.

Q. Mr. Witness, do you recall being informed—

MR. MINSKOFF: May I ask the question?

DR. SEIDL: I am objecting to the last question.

MR. MINSKOFF: Oh, pardon me.

DR. SEIDL: Mr. Commissioner, I ask that the last question and the last answer be stricken from the record. This question is obviously misleading. The Defense as well as the Prosecution is well aware that the defendant Krauch never made any request that inmates be employed. In my opinion, the question could have only been put in the form whether this witness

knew whether Professor Krauch made any such request. The form which was used by the Prosecution could give the impression as if actually someone of Farben or someone of the Gebechem actually made the request.

MR. MINSKOFF: Dr. Seidl has forgotten that a few moments ago he was explaining the functions of cross examination when he was cross examining on a Prosecution affidavit.

THE COMMISSIONER: Have you any definite reply to make to Dr. Seidl's motion to strike?

MR. MINSKOFF: Yes, yes, if it please the Commissioner. The question is based on two things. One is previous statement of the same witness and to a document which was presented before this court, a document which is a letter from Krauch to Ambros explaining that at his request the Goering orders were issued; but apart from that I am now asking for this witness's testimony as to whether he knew at that time there was a question by the defendant Krauch to Goering for such orders to assist in the building of I.G. Auschwitz.

THE COMMISSIONER: That completes your reply to Dr. Seidl's motion, doesn't it, counsel?

MR. MINSKOFF: That completes it, yes.

THE COMMISSIONER: Will you proceed with your examination then?

BY MR. MINSKOFF:

Q. Witness, when you first went down to Kirsten to the SS to make inmates available for I.G. Auschwitz, do you recall reporting on those negotiations and saying that the relationships with the SS were very

friendly and they were willing to cooperate by making inmates available?
Do you recall that?

A. Yes. It is in no way unusual in Germany; we normally try to deal with business partners in a friendly way.

Q. Now, Mr. Witness, if in fact the SS were compelled by some higher authority like Goering or Himmler to make them available to you, why was it necessary for you to constantly have meetings with the SS about making more and more inmates available? Wouldn't that come automatically and why would you report in the minutes of your meetings how fortunate you were in your good relationships with the SS?

A. You're putting two questions to me. One question is this: why was it necessary to conduct negotiations with the SS in order to start the employment? The second question is: Why am I emphasizing that the dealings with the SS were of a friendly nature? Both questions are quite obvious to reply to.

The employment of workers, at least as far as Farben was concerned, was something entirely new. It is a matter of course that we had to make arrangements in what manner these inmates were to be actually employed.

The second part of your question I reply to as follows. It was completely new for Farben to deal with an institution as was represented by the SS at that time. The SS was an organization in Germany which every normal mortal human being treated with a certain caution. For that reason, we were at first quite satisfied in commencing normal business relations with this organization.

Q. I see. Now, Mr. Witness, isn't it a fact that this organization which one has to deal with so carefully was an organization of which you were personally a member?

A. I don't understand your question.

Q. Were you personally a member of the SS?

A. No.

Q. How often during the course of your early stay at I.G. Auschwitz did you have dealings with SS Commandant Hoess?

A. What do you mean — at the beginning? Would you please specify a time?

Q. 1941, to start with.

A. In 1941 I had perhaps three or four meetings with Hoess together with Duerrfeld. I can't tell you exactly.

Q. Mr. Witness, when did you join the Nazi Party?

A. On the 1st of May 1933, for reasons which I already communicated to the Prosecution last summer.

Q. Did the Nazi Party stand for something very different from what the SS stood for?

A. I believe, yes.

Q. Mr. Witness, let us turn for a moment to your chart. Looking at your chart, I notice in the middle box of the top row the only responsibility that you have listed for Farben, apart from foodstuffs, is the supply of electric current, steam and water.

Now, Mr. Witness, isn't it true that I.G. Farben was responsible for the erection and all of the installations of Camp 4 for the accommodation of the concentration camp inmates working for them?

A. You must distinguish. We are here concerned with the various responsibilities after the camp had been completed whilst, however, the camp was being erected no inmates were there as yet. Naturally, Farben had responsibility for the construction of Camp 4.

Q. That is what I want to get on the record, that the actual erection and all the installations which were constructed at Monowitz in which inmates lived were all the responsibility of I.G. Farben — were they not?

A. Yes, that is just as if an architect would build a house and then later gives it to the owner or tenant or purchaser for use. In the same way, Farben was building that camp which was later given to the SS for its use.

Q. I understand; so that if the place was built with sanitary conditions which were sub-human standards that would have been the responsibility of the architect, wouldn't it?

A. The sanitary conditions in that camp were no different from all other German housing camps.

Q. Is it your testimony, Mr. Witness, that all the Germans working at I.G. Auschwitz lived in barracks which had no running water?

A. The barracks naturally had no running water but the sanitary installations did have running water. Let me state something fundamental something which the Prosecution as well as the Defense seems to misunderstand. Throughout entire Germany there were two types of barracks. One type was the type of the Reich Labor Service. Then there was the barrack type of the German Luftwaffe. No other types of barracks were produced throughout Germany. In all German housing camps it was customary that the wash and toilet barracks are separated from the actual living barracks.

Q. Is it your testimony, Mr. Witness, that in the places where other Germans lived at I.G. Auschwitz the toilets were just outhouses with no water at all? Is that your testimony?

A. You again misunderstood me. There were no toilets out in the open. There were toilet barracks. These toilet and washroom barracks had running water. They were constructed in the very same way in all the other housing camps.

Q. Mr. Witness, just yesterday the witness for the Defense who built these barracks testified that the toilets had no running water. They were outhouses. It was necessary from time to time to send trucks down to clean them up. Now, is it your view, your knowledge of Auschwitz, that that is not true?

A. That is correct; yes, that is true. I must correct myself. The rinsing of toilets as we know them in ordinary terms was not done in those toilet barracks but that was true in the case of all living camps throughout Germany.

DR. HOFFMANN (Counsel for defendant Ambros): Mr. Commissioner, I object to this series of questioning by Mr. Minskoff. He asked who originally built Camp 4. Then continuing that question he went on to say that Camp 4 was run in an inhumane way. These are two entirely different subject matters and I must state that the first question as to the responsibility of the construction of the original camp cannot be put together with the questions to conditions in Camp 4.

MR. MINSKOFF: I think that Dr. Hoffmann has misunderstood the question. We are not speaking of conditions in Camp 4 as such but the conditions that were created by the Farben management who as the witness testified, were the architects of Camp 4.

THE COMMISSIONER: You are speaking of installations?

MR. MINSKOFF: That is right.

THE COMMISSIONER: As a matter of fact, Dr. Hoffmann knows that the scope of cross examination is always extremely liberal and I think his objection, however, is fully stated in the record. Have you anything further to say in regard to that objection?

MR. MINSKOFF: No, merely that I think that there is some misunderstanding because the question raised merely to the actual construction which had no toilet facilities in the sense of running water.

THE COMMISSIONER: I think that is sufficient argument on the matter. Will you proceed then with your examination?

BY MR. MINSKOFF:

Q. Mr. Witness, what kind of facilities did you personally have at I.G. Auschwitz?

A. Myself?

Q. Yes. You lived at I.G. Auschwitz, did you not?

A. Yes. In the office barracks I had water closets, that's true. I had them installed, that is true, but that was only in the office barracks.

Q. And other German civilians lived in the barracks — employees lived in barracks which also had running water for toilet facilities; isn't that true?

A. Only employees and not workers. In my opinion, that is quite natural, which is practiced through the entire world; because all over the world the employees, office staff, etc., live under more civilized conditions than ordinary workers. That is true throughout the entire world.

Q. Now, Mr. Witness, under responsibilities of the SS in Camp 4,

Monowitz, you list lodgings and assignments of huts. Now, in your chart there is no mention of the two tents that were used in Monowitz. Now, isn't it a fact that with respect to the two tents in Monowitz it was the suggestion of the defendant Duerrfeld and not that of the SS that those tents were to be set up to house 1,000 inmates because of the lack of room in Monowitz?

A. The setting up of these tents was due to the suggestion by the working management but that, too, Mr. Minskoff, is not a rare occurrence. Even today human beings are still being housed in tents. There is only one difference. In the tents of Camp 4 there was central heating but in other tents in which human beings are living today there is no central heating.

Q. I am interested in getting the record clear and straight. Your chart now which says that the SS was completely responsible for lodging and assignments of huts should then be modified, should it not, because in the case of a thousand inmates who lived in the tents — that was the suggestion of the defendant Duerrfeld and not the SS. Now, shouldn't we, therefore, correct that chart, at least with that modification?

A. You say yourself that was the suggestion by Farben. The decision however, was made by the SS.

Q. Who put the tents up, Mr. Witness?

A. The inmates.

Q. Who provided the materials and the funds?

A. There can be no doubt about that. The funds came in principle from Farben. In my opinion, that was repeatedly testified to. The

8 May 48 ~~M. S. 6.6~~ Primeau (Ramlar)
Court 6, Case 6 - Commission

procurement of the materials and of the tents was carried out by a
specialized firm.

Q Now, Mr. Witness, this is after Monowitz is built. It is Farben then that makes the suggestions for facilities--living facilities--in Monowitz and provides the necessary funds. Now, I say, isn't it necessary in view of that to change your chart as to both items, lodgings and assignments of huts?

A I see no reason why I should do that.

Q Mr. Witness, how long did the inmates live in these tents? Was that a very temporary thing for a few weeks, or did that last for a period of five or six months?

A I cannot tell you that exactly, but it certainly was a few months.

Q Mr. Witness, isn't it a fact that when you had those tents put up that you yourself felt it would be completely unjustified under normal conditions to house human beings in such places?

A No, that was not my opinion. Mr. Hinskoff, I was a soldier myself and I know that one could live very well in tents.

Q Mr. Witness, do you recall making a statement for the Prosecution, saying that you thought that it would be unjustifiable in normal times to live in those tents--on the 7th of August, 1947?

A In normal times, yes, of course, but these were not normal times; we had war.

Q Wasn't the real reason that you had to build these tents the fact that you were asking for more inmates than you could house at Monowitz, and you had to have temporary quarters for the new ones that kept coming in?

A If we had had sufficient housing facilities, no tent would have been put up.

Q Certainly. Now, I say, wasn't the necessity for the tents created by your own Construction Management in asking for more inmates than you could possibly house?

A But we could house them; we had those tents.

Q Thank you. Now, Mr. Witness, from your chart it would

appear that the SS had complete jurisdiction in Camp IV, Monowitz. Now, isn't it a fact that the I.G. Farben had a great deal of influence as to what was done and what installations were built in the Monowitz concentration camp?

A In no way did we exert any influence.

Q Well, Mr. Witness, we just finished with one subject as to the tents, which were suggested by Farben. Now, Mr. Witness, do you recall telling a member of the Prosecution on 7 August, '47, in Nurnberg, that although the SS in Monowitz requested the installation of a morgue, a dissecting room, and a crematory, you refused to comply? Do you remember that, Mr. Witness?

A This, Mr. Minskoff, could not be quite correct. I never refused the construction of an infirmary. It was quite natural that in a camp where 5,000 people or more were to be housed, a hospital--

Q May I interrupt a moment. There has been a mistake in the translation, or else you didn't understand the question. I said, and I will repeat it for you, that: Didn't you tell a member of the Prosecution on the 7th of August, '47, in Nurnberg, that although the SS in Monowitz had requested the installation of a morgue, a dissecting room, and a crematory, that you refused to comply?

A Yes, that is correct.

Q So that, as a matter of fact, both with respect to the tents which you suggested and with respect to the crematory and morgue that the SS suggested, it was always Farben whose decision was final?

A I have already emphasized before, and I shall repeat it now, that the suggestion for the putting up of the tents came from Farben. The decision that the tents were put up was made by the SS.

Q But, Mr. Witness, when we speak of the influence of Farben in Camp IV Monowitz and then we see that when they suggest something, it is carried out, and when they refused to comply it is not carried out, -- doesn't that indicate to you that the influence is rather

strong in Monowitz?

A You cannot conclude from that that Farben's influence was strong there. At that time I refused to construct these buildings because I had to refuse all buildings, including the technical buildings, which were not absolutely essential.

Q Mr. Witness, in your affidavit, Document 959, page 85 of the English, you mention that you often complained to the SS Camp Commandants about the treatment of prisoners. Now, isn't it a fact that the inmates of the concentration camp who worked for I. G. Farben were beaten by civilians, even though the SS Commandant had repeatedly informed you that it was forbidden by civilians to beat inmates?

A I know that the fact that civilians were beating the inmates was expressed very quickly, but whenever that happened these were only individual cases which simply could not be avoided at such a large construction site.

Q Now, Mr. Witness, did you or did you not state to the Prosecution on 7 August, '47, in Nurnberg, that the concentration camp Commandant Hoess told you repeatedly that the Reichsfuehrer SS had forbidden civilians to beat the concentration camp inmates working for you?

A Yes, that is correct. All civilians know that who were working at the construction site. Ninety-nine point nine per cent adhered to this regulation. I admit that in one case in a thousand, perhaps, inmates were beaten by civilians.

Q Now, Mr. Witness, a little confusion in your chart, if I may revert to that. Although you placed the supervision of the inmates and the speed of work under the SS responsibility, you put the voluntary bonuses on the I. G. Farben responsibility. Now, isn't it a fact that the bonuses were given for the specific purpose of increasing the output of the inmates?

A Yes, that is true.

Q So that the speed of the work --

A But also after an agreement had been reached with the SS and after an approval by the SS.

Q Yes....

A The bonus system, as I heard subsequently, was practiced similarly in all concentration camps.

I think that I read a letter in one of the rebuttal books by a high SS officer according to which these bonuses were even ordered.

Q So that the initiative for giving bonuses to the inmates was not I. G. Farben but was the SS, isn't that correct?

A Pardon me, you misunderstood me. The fact that a bonus system was introduced was approved by the SS. The fact that a bonus system was introduced, however, was a matter for Farben or for the building and assembly firm in question.

Q Now, Mr. Witness--

THE COMMISSIONER: Mr. Hinskoff, if you please, I have just been notified that the sound track is just about to expire, and for that reason I will announce a ten minute recess.

(A recess was taken.)

THE MARSHAL: Commission VI is again in session.

THE COMMISSIONER: You may proceed with your cross-examination, Mr. Minskoff.

BY MR. MINSKOFF:

Q. Mr. Witness, the question we left off at concerned the bonuses, and I think there is a little confusion. You mentioned that other concentration camps as well as Auschwitz and Monowitz had bonus systems for their inmates. Now, the question I am putting to you is that: Isn't it a fact that the SS suggested bonus premiums for inmates and even put it into other camps where Farben had no connection with, so that the initiative for a bonus system for inmates was not a Farben initiative?

A. No, that is not right. Farben was the one who suggested the bonus system.

Q. If that is so, Mr. Witness, how do you explain the fact that where Farben was not present in all the other concentration camps they also had bonus systems for inmates?

A. I think it is quite understandable that different people at different places get the same idea.

Q. And did you see the document where the SS suggested bonus systems be introduced to increase the output of inmates?

A. I do not remember the document well enough to be able to decide, but that can be easily checked by consulting the document.

Q. Do you recall, Mr. Witness, that in connection with Fuerstengrube the SS complained that the premium systems were not being used

enough, that some civilian firms were not paying the inmates the premium systems agreed upon? Do you recall complaints of that kind in connection with Fuerstengrube?

A. No, I don't know of that.

Q. Mr. Witness, on the question of the speed of the work, isn't it a fact that because of the acute situation with respect to labor at I. G. Auschwitz that there was constant pressure by the defendant Duerrfeld himself exerted upon the Personnel Division, headed by Mr. Rosspatt, to bring constantly new labor in whether or not there was room to house them?

A. First of all, I must explain something basic. The scarcity of labor did not exist in Auschwitz alone but in the whole German Reich. In all of Germany the plant leaders had to run around to try to get the necessary workers for their factories. It was very natural that the Plant Management of Farben at Auschwitz made efforts to this end.

Q. Now, Mr. Witness, isn't it a fact that you personally sought to prevent the rapid influx of concentration camp inmates because you knew there wasn't enough room for these people?

A. Mr. Minskoff, not only with respect to Camp IV for the inmates did I do that but with respect to all camps, if I had reason to believe that the expected workers could not be properly housed. Usually, however, I might even say always, my fears did not prove justified because the promises of the SS and labor offices, the Provincial Labor Office, the labor offices of the G. B. Chem, the armament kommandos,

and all other agencies dealing with labor procurement — these promises were never kept at the time originally given.

Q. Are you saying that the SS in charge of concentration camp Auschwitz never made as many inmates available to you as you wanted and you needed at the I. G. Farben site?

A. Would you mind repeating the question?

Q. Is it your testimony that the SS in charge of the Auschwitz concentration camp never made as many inmates available to you as you had requested from them, as they had promised you?

A. No, the camp did not. There again there was always a scarcity of labor. That was because the concentration camp itself had such large operations of all possible sorts, especially a big farm, workshops, carpenter shops, butcher shop, etc. I can only tell you what they told us, but they always told us that they did not have enough workers.

Q. Now, Mr. Witness, wasn't it rather fortunate for the inmates, that the SS did not provide you with all of the inmates they promised you; since you could not house the inmates you received? You had to build tents for some of them.

A. I said earlier that they could be accommodated because after approval by the SS we had several tents; and I repeat, in wartime in abnormal times, housing people in tents is not unusual. Even today there are many people living in tents, and very many people.

Q. Is it unusual to have 1000 inmates in one single tent for five months; or is that customary?

A. If the tent is big enough that is quite understandable, and it was big enough.

Q. And if they provided you with all of the inmates you requested you just built some more tents; is that right?

A. Mr. Minskoff, the question shows that you still do not understand the conditions in Camp 4. -- and this has been emphasized very often -- The camps were a temporary affair. Afterwards there were always enough barracks, and I would like to say this again too, the tents were set up only because in Germany at that time there was a fight for every cubic meter of wood, and every kind of iron. We were not living in the plenty that existed in your country and still exists there.

Q. Now, Mr. Witness, when you say, "always", you don't really mean always, because you used tents again in 1944; isn't that true?

A. Temporarily, yes.

Q. You stated that you used this one time and there was always enough

room after that; that isn't really true is it?

A. I may repeat the fact that we set the tents up, — there was only one tent the second time, — provided us with enough room.

Q. Now, Mr. Witness, I understand the difficulties you had in building barracks, and the shortage of wood, etc., but the point I am trying to get across to the Court is that given those difficulties of building additional barracks, the more inmates you requested, the more crowded they would have to be, so that if the SS gave you as many inmates as you requested, — which they never did you say, — they would even be more crowded than they actually were at Monowitz; isn't that so?

A. I don't know what conditions were in the camp. I saw the camp only a few times while the prisoners were at work, and the impression I gained then was that the accommodations were completely adequate.

Q. Mr. witness, there has been much testimony here by the defendants, Duerrfeld and Ambros, that the chief reason for building the fence around the I.G. Auschwitz building site was in order to keep the SS out, and give the inmates more freedom.

Now in your chart, under "Responsibility" you show in the plant itself, in the plant, that supervision and speed of work are the responsibility of the SS. Now, Mr. Witness, if this fence did in fact keep the SS out, would you explain to the Court how it was their responsibility to supervise the work and the speed of the work, and they were not even inside to see what was going on?

A. I believe, Mr. Minskoff, that you know just as well as I do, that the inmates were under the supervision of the Capos, and that there

were SS patrols constantly going through the plant site.

Q. I.G. Farben, Auschwitz, was a big place wasn't it?

A. Yes, that 's right.

Q. The SS patrols, did they know anything about the work that was going on or were they Guard patrols going with dogs from place to place to see if the inmates kept in line?

A. I never saw patrols with dogs on the construction site. There were only very few people, - I think about 6, - who patrolled the construction site, and besides, as you know, there were guards around the fence.

Q. Now, Mr. Witness, let's get this last point as clear as we can; there were SS patrols that went through the I.G. Farben site, you say; now is it your testimony that these SS patrols just marching through the Farben site were actually supervising the work of the inmates?

A. Mr. Minskoff, you cannot expect me to know exactly what the duties of these patrols were. I had other things to do than to find out what the duties of every title SS man was.

Q. Mr. Witness, apart from the defendant Duerrfeld, there was no higher construction official of the Farben government on the entire Auschwitz site; construction is your business. Now I am asking whether you are testifying that at I.G. Auschwitz, with its tremendous construction going on, that patrols which walked around Auschwitz to see that people didn't escape, were supervising the work.

THE COMMISSIONER: Just a moment.

MR. HOFFMANN: I object. The witness has already said that he knows nothing about it. A further question is not permissible after he has made

this answer.

THE COMMISSIONER: Mr. Minskoff, as I remember, the witness answer he said he did not know. He answered your question by saying he did not know. I do not think you can properly pursue that, although I would not care to make a ruling. If you want to answer Dr. Hoffmann's objection, you may put it in the record.

MR. MINSKOFF: No, I will go along with Dr. Hoffmann's suggestion, but in view of that, I would like to ask the witness whether he does not think that the little box of, "SS responsibility" should not now be changed; to put down that he does not know who was responsible.

THE COMMISSIONER: That is a proper question. Ask him.

BY MR. MINSKOFF:

Q. Mr. Witness, if you do not know who supervised the work, and if you do not know who was in charge of the speed of the work, if you do not know whether it was the SS patrols or somebody else, isn't this box completely inaccurate and unjustified?

A. Excuse me, Mr. Minskoff. I believe I was misunderstood. I said very clearly that the work was under the supervision of the Capos. I merely said that I did not know what orders the SS patrols had.

Q. Now, the Capo was not an SS man, the Capo was an inmate. You say in your box this was SS responsibility, and when I put the question to you, as to how could the SS exercise the responsibility, if the I.G. Farben fence kept them out, you said there were patrols inside, and I asked you, did these patrols supervise the work, and you said you did not know. On the basis of your answer, I ask you whether you want to

change this entire box now?

A. But that is very simple. The Capos got their instructions from the SS.

Q. Mr. Witness, how could the SS, who did not come inside your fence, give instructions as to how the construction work should be performed on I.G. Farben Auschwitz site?

A. I can very well imagine -- and this is doubtless true, -- that the SS gave the Capos basic instructions about the work; not in detail, just general instructions, and that it was the duty of the patrols to see that the Capos carried out their instructions. That was doubtless the case.

Q. What were your engineers doing there; did you have inspection trips by your engineers going from place to place in the Auschwitz site?

A. No, the set up was such that each engineer had one special district for which he was responsible.

Q. Mr. Witness, do you recall the Buero Fischer?

A. Yes.

Q. Will you tell the court what function the Buero Fischer had?

A. I cannot tell you that exactly because I had very little to do with it, and I did not want to have much to do with it.

DR. SEIDL: Objection, Mr. Commissioner. I object to the question. In all of the affidavits of this witness there is not a single word about the Buero Fischer. The question does not refer to the affidavit of this witness.

MR. MINSKOFF: Mr. Commissioner, I merely wish to state in connection

with that that Buero Fischer is only drawn to the question because this witness has a chart which is now in evidence, and placed there by the Defense, Speaking about the responsibility for supervising the inmates. Now in determining who is responsible, I am asking this witness about the Buero Fischer which conducted inspection trips just to supervise, and see what was going on on the I.G. Farben Auschwitz site. Now if he does not know what supervision they had, he may so state.

THE COMMISSIONER: I think the argument is clear as to the position taken by Counsel. I would like to say at this time, however, as well I think for the benefit of counsel, that where the question is asked it is unnecessary to elaborate beyond the immediate reply, and if there is something to be added there is little doubt but what one of the counsel, either Prosecution or Defense Counsel, will examine the witness further on the point that is not complete, but in the meantime it will make our proceeding here more orderly simply to answer the question without any additions.

MR. MINSKOFF: Mr. Commissioner, at this time I would like to place in the record the number of the last document that was offered when the previous witness was on the stand, so any additional documents may be numbered. That was NI 10930, and that should be given Exhibit No. 2348, in evidence for the Prosecution.

THE COMMISSIONER: 2348 is offered in evidence?

MR. MINSKOFF: That's right, Mr. Commissioner, and the Prosecution now offers NI 9819 as its Exhibit in Evidence 2349, which is an affidavit of the same witness given to the Prosecution on the 7th of August 1947 in Nurnberg.

DR. SEIDL: Mr. Commissioner, I object to the admission of this document. The Court has ruled in two cases in the last few days about the submission of affidavits by the Prosecution during cross-examination of the witnesses. In the examination of the witnesses Reithinger and Schiller, the Prosecution also offered affidavits. The Defense objected, stating that the Defense would object before the Commissioner and before the Tribunal because this is nothing but rebuttal material introduced in this way.

I want to put on the record that we object to the document introduced yesterday, and that we reserve the right to object to all of these new documents, and explain our objection to the Tribunal itself.

THE COMMISSIONER: Your objection is on the ground that it is rebuttal material.

MR. MINSKOFF: Mr. Commissioner the affidavit is offered to impeach the testimony that this witness has given today before this Commission, and for no other purpose.

There are no further questions on the part of the Prosecution.

DR. HOFFMANN: I join in the objection of my colleague, Dr. Seidl, and I should like to remark further that some questions are dealt with in this affidavit which were never brought up with this witness; specifically the questions of the foundation of Auschwitz. If the Prosecution wants to introduce this whole affidavit, I will maintain my objection. If the Prosecution wants to limit the affidavit, I would withdraw my objection.

THE COMMISSIONER: What have you to say to that, Mr. Minskoff?

MR. MINSKOFF: The affidavit is offered only for those paragraphs

which relate to testimony which was before the Commission today.

THE COMMISSIONER: Can you indicate those paragraphs Mr. Minskoff?

MR. MINSKOFF: I would be glad to for the record, if I had a moment first to go through the affidavit. To save the time of the Commissioner I might say that I can later report into the record the precise paragraphs to which we are referring.

THE COMMISSIONER: We will let Dr. Hoffmann's objection stand pending while you make this examination. In the meantime we can go ahead with the examination of this witness.

DR. HOFFMANN: All right.

MR. MINSKOFF: The point the Prosecution is making is merely that those paragraphs which relate to testimony before the Commission are offered now to impeach this witness. As to the paragraphs which have no relationship to testimony before the Commission they may be stricken from the record.

THE COMMISSIONER: Well if you could indicate precisely the paragraphs that are to be inapplicable here, it would be helpful to the Tribunal in passing on the objection. That is the reason I am bringing that up Mr. Minskoff.

MR. MINSKOFF: I will ask for one moment, Sir.

THE COMMISSIONER: All right. Thank you. Is there further examination by the Defense?

RE DIRECT EXAMINATION

HAX FAUST

BY DR. SEIDL (counsel for the defendant Duerrfeld):

I have a few questions to put to this witness, but I should like to

wait until the Prosecution has made it clear what paragraphs in this affidavit are being offered.

THE COMMISSIONER: I was hoping Dr. Seidl that we could dispose of this witness before half past twelve. Do you think that can be done?

DR. SEIDL: Yes, I believe that would be easily possible.

THE COMMISSIONER: Let's try and do that. We will just wait a few minutes while Mr. Minskoff works over this problem.

MR. SEIDL: Mr. Commissioner, to take advantage of this time, I may begin and ask the witness Frust the questions which can be asked without reference to this new affidavit.

Q. Witness, at the beginning of your examination you were asked about the Conference on 27 March, 1941, with the Commandant of the concentration camp Auschwitz?

A. Yes.

Q. The Prosecution in rebuttal Book 93 has offered the minutes of this meeting as Exhibit 2200 on page 4 of the Document Book. No. 3 of these minutes reads:

"The decisive factor for the speed at which this can be done is the procurement of iron and of the necessary number of Capos. These Capos," and now comes the important point, "foremen and other skilled, trained workers, will be selected from amongst the professional criminals and are to be transferred from other concentration camps to Auschwitz".

MR. MINSKOFF: He just testified he does not remember about the Capos and the situation at that time. We have had three questions on that and I object to it. If five minutes ago he didn't remember it, he doesn't

remember it now.

THE COMMISSIONER: Have you anything to say on that Dr. Seidl?

DR. SEIDL: The Prosecution referred to these minutes without reading them to the witness. Since the Prosecution has already introduced this document into this examination by reference, this witness has a right to learn what the Prosecution was referring to.

MR. MINSKOFF: The defense does not have that right in the redirect. They only could ask questions concerning the cause. Now if the witness was prevented from answering because he could not remember, there is nothing to question on redirect about.

THE COMMISSIONER: Well the Commission hasn't any authority to rule on these questions, and for that reason I imagine that this witness will have to go ahead if you insist on your question.

I would like you to make the question as brief as possible, and the witness also to answer as briefly as possible.

BY DR. SEIDL:

Q. Witness, do you remember now what the problem was in obtaining of Capos for the KL (Concentration Camp).

A. I read this passage a few days ago in the rebuttal book, but I repeat I have no personal recollection.

Q. You were also asked by the Prosecution whether the agreements with the SS were concluded by Farben, or by the 250 firms at the Auschwitz site. Would the SS have been willing to make agreements with these 250 firms or did they insist on dealing only with one firm; would it have been possible at all for the SS to deal with all of these many firms?

MR. MINSKOFF: Mr. Commissioner, objection is made to that question also. The testimony was very clear that the only agreement there was between Farben and the SS; as to whether in fact it might have been possible to make other arrangements is hardly testimony for this court. We are asking facts of this witness and he is giving us the facts.

DR. SEIDL: Mr. Commissioner, I don't understand the point of this objection. The witness testified that the SS reached agreements with Farben plant management, and the Prosecution asked whether such agreements were made with the individual construction and assembly firms, and I think it is very natural to ask the witness to explain why it was that the SS wanted to negotiate only with Farben and not with the many firms which were changing all of the time.

THE COMMISSIONER: You might ascertain whether or not he knows.

BY DR. SEIDL:

Q. Please answer the question; do you know anything about this?

A. The question was why was it that Farben negotiated and not the individual construction and assembly firms?

THE COMMISSIONER: Now ask him if he knows.

BY DR. SEIDL:

Q. Do you know anything about that?

A. It was a matter of course, that there were not 250 firms negotiating but only one firm; that is a question of common sense.

Q. The Prosecution also asked you about Camp IV. Did Farben build this Camp IV or did the Rue-Bau-Leitung build it?

A. In the beginning by Farben, and I am not sure of the date when the

COURT VI CASE VI
8 May 48-10-6-M-AEII-Stewart (von Schon)
COMMISSION

Rue-Bau-Leitung began its work. It may be in the early summer of '42. From then on it was under the Rue-Bau-Leitung.

Q. I now come to the two tents which were set up temporarily in Camp IV. Was the number of inmates to be lodged in these tents decided upon by the management at Farben, or did the SS decide that?

A. The SS alone decided that.

Q. Do you remember whether one of the reasons for putting up these tents was the fact that in the big concentration camp Auschwitz, a typhus epidemic had broken out and these tents were to be used as a sort of quarantine station for the new inmates coming in Camp IV or don't you know anything about that?

A. I know nothing about that.

Q. Do you remember that the question of whether there was an autopsy room and a crematorium to be built in Camp IV was brought up by Standarten fuhrer Maurer and that he approached the concentration camp authorities because of that?

A. Now, that you mention it, I think I can remember that.

DR. SEIDL: Mr. Commissioner, I have no further questions based on the cross examination. I would be very grateful to the Prosecution if they could now tell us what paragraphs of this affidavit are intended to be put in evidence, and I want to emphasize once more that our basic objection is still maintained.

MR. MINSKOFF: If it please the Commissioner, in Affidavit NI 9819 the following paragraphs are offered in evidence: 1, 4, 5, 6, the first two paragraphs of 8, the last paragraph of 9, the first and second paragraphs of 10 and also the last paragraph of 10. That's the first, second and last paragraphs of 10. The first, second and last. Those in between are out. Paragraphs 11, 12 and the first paragraph of 13. And that's all. 15, 16, 17 and 18 are all out, and with respect to those paragraphs the affidavit is in.

THE COMMISSIONER: Is offered in evidence.

MR. MINSKOFF: In evidence for all purposes.

THE COMMISSIONER: As to them exclusively and eliminating all others?

MR. MINSKOFF: Those not specifically mentioned are to be stricken from the record.

THE COMMISSIONER: Right.

BY DR. SEIDL: I withdraw my objection.

Q. Witness, is it true that the plant management of Farben always employed the inmates according to the general orders which had been given to Farben?

A. Yes, of course. The order was the occasion for initiative both for Farben and the SS.

Q. In No. 9 you spoke of the treatment of the inmates at the construction site itself.

A. You mean me?

Q. No, the treatment of the inmates at the construction site.

A. I don't understand the question.

Q. In No. 9 of the affidavit which you gave to the Prosecution.

A. Yes.

Q. To which the Prosecution has given No. NI 9819, you spoke, among other things, of the working conditions for the inmates at the construction site. You say: "I heard again and again from my associates that the inmates were mistreated." Now, witness, did those complaints of your associates reach you especially at the beginning, did they become fewer in the course of time, and what was the general attitude of the management to the question of whether anyone was allowed to be mistreated at the construction site? Just very generally.

A. If I recall correctly, I said that in my affidavit but, at least, I know I said in my examination by the Prosecution, that the management was always against mistreatment or beating of the inmates or any other workers. This can, of course, never be prevented altogether in such a big construction site.

Q. Am I to understand you to mean that these were isolated incidents?

A. If I happened later in 1943 or the end of 1942 - in 1943 or 1944 - it could only have been isolated cases. I said that in the beginning, in 1941 and 1942, mistreatment occurred repeatedly and there was doubtless certain training of the Kapos necessary to have this stopped. It happened that Upper Silesian Polish elements among the foremen were guilty of mistreating the inmates but, of course, we intervened as soon as we learned of those instances. I said when -

Q. Excuse me for interrupting you. When did you mean by "when"? When you were examined by the Prosecution?

A. Yes. I said it was remarkable that we, the executives, hardly ever witnessed such occurrences. Probably because the Kapos, foremen, etc., know us and were careful. I always heard of such things second hand.

Q. If you compare the treatment given to the inmates in the beginning with the conditions in following years, especially in 1943 and 1944, what conclusions do you come to, Mr. Faust, very generally?

A. The treatment of the inmates in 1941 and 1942 until July, when the typhus epidemic broke out, cannot be compared with the treatment which prevailed from the fall of 1942 on after the fence was put up. The treatment after 1942, beginning in October 1942, was much better and I am convinced that incidents may have occurred on the part of Kapos and very rarely on the part of civilians, but that these were only isolated incidents.

Q. Then in 1943 there were fifteen to twenty thousand people working at the Farben plant, if I remember correctly. In 1944 I believe it went up to thirty thousand. Did the executives, did you personally have any

way to prevent such incidents occurring with Kapos, foremen, etc.?

A. The only thing we could do was to instruct the leading men and urge them to pass on these directives to their subordinates. This was not done once but, I may say, constantly.

Q. In No. 9 you also say that you often saw exhausted inmates sitting or lying around. Do you know why they were exhausted? Were they sick, perhaps? Were they overworked? Do you remember? Was that in 1941/1942 or was that later?

MR. MINSKOFF: If he asks just one question and waits for the answer we'll all understand the answer. He asks seven questions in a row so that the next six can suggest a possible answer that the witness can give.

THE COMMISSIONER: I will not recognize that Dr. Seidl is proposing to prompt the witness in any way, but I think it might be a better practice to make the questions one at a time, Dr. Seidl. You may proceed with your examination.

BY DR. SEIDL:

Q. Witness, will you please answer the question as well as you can and then I shall ask another question if that becomes necessary. Do you remember the question?

A. I was about to say you'll have to repeat it.

Q. Well, I shall repeat it and make it simpler.

In No. 9 you say that you saw exhausted inmates around and I want you to tell me when that was and why they were exhausted. Whether you know anything about that?

A. I can't tell you why they were exhausted. There's perhaps one

thing I can say about that. It makes a wrong impression if we just speak of exhausted inmates. That people were sometimes exhausted one can find at every construction site. There were civilians too. Unfortunately this affidavit only speaks of inmates.

THE COMMISSIONER: That question has been answered. Go ahead, Dr. Seidl.

BY DR. SEIDL:

Q. In No. 6 of your affidavit you say that in the beginning the number of inmates made available by the concentration camp Auschwitz was strictly limited. Now, I want to ask you very generally, did the plant management of Farben and did you yourself have any special interest in employing concentration camp inmates or did you go to the competent labor authorities to get free workers? And what reply did you receive?

MR. MINSKOFF: Object, first to the form of the question which was three questions and, secondly, to the paragraph that is referred to. The witness didn't say that he himself sought inmates. He said that Duerrfeld did. The question should be projected to that rather than to a completely new element which Dr. Siedl is introducing.

THE COMMISSIONER: Have you anything to say to that for the record, Dr. Siedl? Make it brief please.

DR. SEIDL: I spoke very generally of the management. The witness himself, in his affidavit, has testified that in the beginning and later too he was the first construction engineer at the construction site and, therefore, there can be no contradiction in this question.

Will you please answer the question, witness?

THE COMMISSIONER: Ask you questions one at a time. Ask your questions one at a time.

BY DR. SEIDL:

Q. I repeat the question. Did the management of Farben generally welcome the employment of inmates or did they not make efforts to keep the number of inmates as small as possible and to get free workers?

A. Farben generally and the whole plant management and all the executives at Auschwitz in particular from the very beginning had a horror of the employment of concentration camp inmates and it was quite natural that we made every possible effort to get civilian workers.

THE COMMISSIONER: Now that answers that. Take the next one.

BY DR. SEIDL:

Q. And then you always employed those inmates under the orders that

had been given to you?

A. Yes, of course.

Q. I would like to come back to my previous question which dealt with the exhausted inmates. Didn't you see a picture showing exactly the opposite, that the prisoners came out with music and singing?

A. Occasionally, yes, but I certainly don't want to imply that was general. By no means.

Q. In #10 you deal with the establishment of the labor correction camp. Do you know exactly who suggested this camp and whether such a camp did not exist earlier somewhere else?

A. Whether such a camp existed previously somewhere else I cannot say. The suggestion that they put this camp in Monowitz at our factory, as far as I know, came from the authorities, from the Gestapo or somewhere else, and we were, from the very beginning, extremely opposed to it. Unfortunately, we were not able to prevent it.

DR. SEIDL: No further questions.

BY DR. FLAEBCHSNER: (Defense Counsel for defendant Buotefisch):

Q. Witness, in your affidavit, NI 9819, which has just been introduced by the Prosecution, you deal in #4 with the conversation with the SS Obergruppenfuehrer Wolff. After you have read the document I want to ask you a question.

A. Yes, please.

Q. Witness, was this conference very general? Was it of an informative character or were details discussed with Wolff?

A. As far as I can remember this conference today after seven years, only general things were discussed and Wolff referred us to Oberfuehrer Gluecks. As I recall, there were two conferences - one with Wolff and one with Gluecks later. I am not sure whether that is right. I can't remember today.

DR. FLAECHSNER: Thank you. That's enough.

BY DR. HOFFMANN (Defense counsel for defendant Ambros):

Q. Witness, the prosecutor has said that both Duerrfeld and Ambros wanted to have the fence around the plant at Auschwitz so that the inmates could be safe from mistreatment, at least while they were at work. Without commenting on this opinion of the Prosecution, I should like to ask you to what extent was Ambros informed of these things?

A. Ambros was normally informed about these things at the construction meetings. He attended them generally, but I want to emphasize that at these meetings everything was discussed in general outline and very few details were given.

MR. MINSKOFF: There is no objection, if it please the Commissioner. I just want to straighten the record out. Dr. Hoffmann said that the Prosecution stated that the reason the fence was built was to keep the SS out. Now, the Prosecution did not state that. The Prosecution stated that the defendants Ambros and Duerrfeld so testified.

THE COMMISSIONER: I think the record is clear on that then.

Go ahead, Dr. Hoffmann.

BY DR. HOFFMANN:

For the record, I should merely like to state on behalf of my client

Ambros that I had assumed that the Prosecution conceded at least this statement.

Q. Witness, you say that that information was given in the construction conferences. Now, for the question of how far Ambros dealt with these things I should like to ask you about the weekly reports. There were weekly reports too and you wrote them?

A. In part.

Q. If you wrote part of these weekly reports I can imagine you were interested in finding out whether they were read or not. Can you tell whether Ambros, for example, read these weekly reports?

A. I consider it impossible that Ambros read these weekly reports and frankly I never expected him to, because I know very well how much work Ambros had to do.

MR. MINSKOFF: Dr. Hoffmann has apparently not taken down accurately the paragraphs that were stricken from the affidavit. Paragraph 14, which speaks of weekly reports, has been stricken so that there is nothing before the court for cross examination to be based on.

DR. HOFFMANN: Then, Mr. Commissioner, may I introduce this paragraph 14 for identification and also as an exhibit?

THE COMMISSIONER: The record will show it.

MR. MINSKOFF: No objection by the Prosecution.

THE COMMISSIONER: Now, are you introducing this for identification.

DR. HOFFMANN: For identification, yes.

THE COMMISSIONER: Then there are certain paragraphs that you are offering for identification only, is that correct?

DR. HOFFMANN: Yes.

THE COMMISSIONER: Then I'll ask you to indicate for the record just which paragraph it is.

DR. HOFFMANN: I offer for identification paragraph 14.

THE COMMISSIONER: Very well.

BY DR. HOFFMANN:

Q. Witness, you have just told me that you were convinced that your weekly reports were not read by Ambros.

MR. MINSKOFF: Mr. Commissioner, if he wishes to examine about paragraph 14 he has to offer it in evidence. It is not before the court now, except for identification. Now, if he puts it in evidence he might ask questions concerning it and then really direct questions rather than cross.

THE COMMISSIONER: You can present this paragraph 14 to the witness to refresh his memory while it is merely in the files for identification.

DR. HOFFMANN: Mr. Commissioner, thank you very much, but I do not intend to. I intend to offer it not only for identification but also in evidence.

THE COMMISSIONER: You are now offering it in evidence?

DR. HOFFMANN: Yes.

THE COMMISSIONER: Very well. Proceed.

BY DR. HOFFMANN:

Q. Now, witness, to repeat - you have just told me - you said that you were convinced that Ambros did not read these weekly reports and as a reason you said that he could not do so because he was so overworked, is

that right?

A. Yes.

Q. My next question: Were you ever able to observe that Ambros was not informed although he should have been if he had read your weekly reports? Can you remember any such instances?

A. No.

Q. Another question, Mr. Faust. Didn't you deplore the fact that Mr. Ambros did not read these weekly reports?

A. One must know the nature of the weekly reports. It was customary in every large construction site to keep a journal or a weekly record not only for historical reasons but also for purely technical reasons. The weekly reports in Farbion were made so that all construction offices working there might be regularly informed about the progress of the work. They had to be informed so that they could know when changes for this whole plan were needed.

Q. What is your conclusion? I asked you whether you didn't deplore the fact that Mr. Ambros did not read these weekly reports?

A. I never thought about that, Mr. Hoffmann.

Q. But you know that that was the case?

A. Yes.

Q. Witness, the Prosecution has discussed with you at some length the question of the employment of inmates in the plant itself. While the inmates were working at the plant and a fence was built around the plant were these the only guards that were over the inmates, or was there something else in addition to the fence?

A. I believe the Prosecution asked the same question about the patrols of the terrain. There were guards around the fence and there were these patrols of a few men. I know of no other guards.

Q. In addition to this fence, were there guards or was there just the fence?

A. Of course there were guards at the fence. I assume that that was known.

Q. That wasn't known to me, witness. I never saw it. You have to explain it.

A. There were guards at the fence every two hundred meters approximately.

Q. Tell us what it was like.

A. Every two hundred meters there was a guard, all the way around the plant site, with a rifle at ease and he watched to see that no inmate got out. There's not much to describe.

Q. To get back to NI 9819, witness, I want to ask you about a place where you crossed something out in this document. Whose idea was it to cross this out?

A. That was my idea.

Q. Was there any special reason?

A. I was told I could make any changes that I thought necessary and I did so.

THE COMMISSIONER: Dr. Hoffmann, for your benefit as well as for the benefit of other counsel who wish to examine this witness, I want to let you know that the sound control will be cut off in about ten

8 May - M-LU-12-8-Leonard (Int. von Schon)
Court VI - Case VI Commission

minutes. Will you be able to finish your examination at that time?

DR. HOFFMANN: I believe not.

THE COMMISSIONER: How long will it take you to complete your examination?

DR. HOFFMANN: Twenty minutes.

THE COMMISSIONER: It's a pity to have to come back for that twenty minutes' examination - ten minutes or so. Are there other defense counsel who wish to examine the witness? How about the Prosecution?

MR. MINSKOFF: It depends on what happens from now on.

THE COMMISSIONER: Oh, well, I think we'd better recess now.

We'll recess until half-past one.

(A recess was taken until 1330 hours.)

1948
8 May - A-LU-13-1-Mills (Int. Ramlar)
Court VI - Case VI Commission

THE MARSHAL: The commission is again in session.

THE COMMISSIONER: You may proceed with your examination, Dr. .
Hoffmann.

REDIRECT * EXAMINATION

BY DR. HOFFMANN:

Q. Mr. Faust, before the noon recess we were discussing the weekly reports and who read them. What was your position at the construction place?

A. I was the construction manager.

Q. And later?

A. I was the head of the construction department.

Q. With reference to your affidavit, NI 9819, I should like to ask you to explain Dr. Ambros' responsibility.

A. Dr. Ambros, as a member of the Vorstand, was entrusted only with the task of issuing directives, on a broad basis, to the construction engineers, according to which the building project was to be carried through.

Q. You are testifying that fact as a witness although you yourself were the construction manager and later continued in a function which dealt with the construction of the plant?

A. Yes.

Q. You are stating that under your oath?

A. Yes.

Q. Mr. Faust, the labor allocation had to be settled and after you have stated what the outline was, please give us some details about



Mr. Ambros' activity. What did he have to do with the labor allocation?

A. Practically nothing. I am convinced.

MR. MONSKOFF: Just a moment. May I ask with reference to what paragraph is he now examining the witness?

DR. HOFFMANN: I am referring to affidavit, Paragraph 5, second sentence.

THE COMMISSIONER: Go ahead, Dr. Hoffmann.

A. It was natural for Dr. Ambros to discuss the questions of labor allocation during conferences with the Reich authorities. He informed us about the result of such conferences in order that we may take advantage of it — that is how I look at these matters.

Q. I don't want to put a so-called leading question to you because that would perhaps decrease the probative value of your testimony. I should only ask you to specify your testimony a little more. You were discussing conferences with the Reich authorities. I don't know how far down that went. Could you perhaps tell me who was in charge of labor allocations?

A. You mean at the construction site?

Q. Yes.

A. The head of the labor allocation was Dr. Rossbach being the head of the social department. Under him was Assessor Schneider.

Q. Would you perhaps explain the jurisdiction of these gentlemen?

A. Dr. Rossbach, as all main departmental chiefs, was entirely independent in his work. However, the works management issued him the necessary directives. The execution of these directives were left up

to Dr. Rossbach himself.

Q. When were these gentlemen, Rossbach and Schneider, appointed?

A. As far as I remember Dr. Rossbach was appointed in October 1941 and Dr. Schneider was appointed in the beginning of 1942 -- spring of 1942.

Q. Did I understand you to say, Mr. Faust, that these said gentlemen requested the labor?

A. Yes.

Q. That was their only task, was it?

A. Their task was taking care of the entire social sector of the construction site. For instance, they had to care for all the camps except Camp 4. All the camp leaders were subordinated to Dr. Rossbach.

Q. Another question. In addition to these two gentlemen was there any social leader?

A. That was Dr. Rossbach. He was the social leader.

Q. Now, Mr. Faust, in one of your weekly reports -- I don't know which -- you stated --

MR. MINSKOFF: I think it will be helpful if Dr. Hoffmann would state in each case which paragraph he is referring to so that we could follow the thing much more easily.

DR. HOFFMANN: This is paragraph 14 which I introduced for this purpose. In one of these weekly reports you wrote that the beating at the construction site had to cease.

MR. MINSKOFF: Now, I have no objection to the witness going into the field of the weekly reports. But if that is what is intended it

clearly doesn't arise from Paragraph 14 which merely says he sent copies of these reports to Ambros and Duerrfeld. Now, if the Defense is satisfied to bring up the entire subject of weekly reports the Prosecution has no objection to that. But it wants to make its position clear that if the question is gone into at this point, the Prosecution will feel free to open the entire subject of the contents of the weekly reports with this witness who wrote them. Up until now the record, even though he has given six affidavits, is completely devoid of any mention of the weekly reports.

THE COMMISSIONER: I thought I heard some mention of the weekly reports, Mr. Minskoff.

MR. MINSKOFF: That is paragraph 14. Copies of those reports went to Ambros and Duerrfeld. Now, he has given six affidavits but he has not in any of those affidavits mentioned the weekly reports. Now, if the Defense wants to open that question up we have no objection to it whatsoever, but we want it to be clearly understood then that we will feel free to go into that subject.

THE COMMISSIONER: Mr. Minskoff, Dr. Hoffmann is questioning the witness on cross-examination on the affidavit that you filed last. Isn't that correct?

MR. MINSKOFF: That is rather complicated, Mr. Commissioner. The paragraph concerning which he is now putting questions is a paragraph which we agreed to strike as not being proper cross-examination. It will be rebuttal material so we struck it. Then Dr. Hoffmann, on his own initiative, introduced that in evidence himself and it is now in

8 May - A-LU-13-5-Mills (Int. Ramler)
Court VI - Case VI Commission

connection with that paragraph that his questions are being put. It's really his own witness on this paragraph.

THE COMMISSIONER: Substantially that is direct examination.

MR. MINSKOFF: As I understood it, sir.

DR. HOFFMANN: Yes, Mr. Commissioner. I am completely in agreement with counsel for the Prosecution's opinion as far as that is concerned. I should merely like to say that the Prosecution later on will be entitled to put questions to the witness about the weekly reports and that will become apparent after another four or five questions.

THE COMMISSIONER: Well, now, the practice I think has been to, where you examine on direct, submitting an affidavit and then examining on direct, that the direct is confined to changes and corrections of the affidavit. Then, on re-direct you may take up matters covered by the cross-examination, is that correct?

DR. HOFFMANN: Yes.

THE COMMISSIONER: Well, now, then are you asking the witness to make corrections or changes in Paragraph 14?

DR. HOFFMANN: This is my aim, Mr. Commissioner; whether I shall succeed in it I don't know.

THE COMMISSIONER: All right, go ahead anyway. I think we will save time by letting the matter progress, rather than stopping to argue about it.

BY DR. HOFFMANN:

Q Witness, I have already asked you about that one Weekly Report where you said you did not wish beatings of inmates at the construction site to reoccur. You said that if that was done by the SD one should put these people under the control of our own camp. That is the Weekly Report 13, if I am correct.

Witness, how am I to understand the feeling which you expressed at the time when you drew up that Weekly Report?

A This phrase, which was quickly dictated, is only to mean that we at the construction site wanted to avoid under all circumstances any mistreatment of inmates. It isn't pleasant if one has to witness such scenes at the construction site. Now, if the SS really believed that they would have to permit such mistreatment, then we on our part believed that they should do that where the public wouldn't see it; quite apart from the fact that we really couldn't exert any influence as to what the SS did with the inmates in their camps.

Q Witness, a question to you. Am I to understand you to say that you were quite shocked about this mistreatment?

A Yes, naturally; not only was I shocked but all those who

witnessed and who heard of such incidents.

Q I should like to put another question to you in that connection. You know Ambros, don't you?

A I believe I know him rather well.

Q What do you think would have been the consequence had he read the report?

MR. HINSKOFF: Mr. Commissioner, it is hard to figure out a more improper question.

THE COMMISSIONER: Are you objecting to it?

MR. HINSKOFF: I object to it, of course.

THE COMMISSIONER: What is the ground of your objection, Mr. Hinskoff?

MR. HINSKOFF: He now wants the witness to tell him what he would have thought had something hypothetical occurred, which is obviously not testifying to any facts.

DR. HOFFMANN: Mr. Commissioner, in response to that objection I might only state that if counsel for the Prosecution would stipulate with me that Ambros did not read these Weekly Reports I would withdraw my question. If, however, his point of view is different, then I should like to find out with that question whether he could have read them or not. That is something which, anyway, was confirmed by the witness before but which I want him to reaffirm now.

MR. HINSKOFF: The Prosecution has no doubt that the defendant Ambros read all the Weekly Reports, and if this witness testifies that in his opinion although he sent them to Ambros, Ambros didn't read them, that is his testimony. But to now ask him what Ambros would have done had he received and read them, is so completely hypothetical a conclusion it is completely improper.

THE COMMISSIONER: I think both counsel have expressed their reasons sufficiently on the record. The witness may answer the question now, subject to Prosecution's objection.

BY MR. HOFFMANN:

Q I shall repeat, Mr. Faust. You said before that you knew Mr. Ambros, and I then asked you what you thought he would have done had he read this report.

A I am convinced that Ambros would have tried to arrange his travel program in order to appear as quickly as possible at the construction site in order to discuss such incidents with us, the Works Management, and in order to find means and ways in order to avoid their repetition in the future.

Q No further questions.

THE COMMISSIONER: Any other Defense counsel desire to examine this witness further?.... Have you any further examination, Mr. Minskoff?

MR. MINSKOFF: Just a few questions, sir.

RECROSS EXAMINATION

MR. FAUST, Resumed

BY MR. MINSKOFF:

Q First of all, Mr. Witness, when you testified that the Weekly Report which stated that the inmates were being beaten by the Capos and that for purposes of morale of the civilian workers these beatings should be removed from the I. G. Farben site and should take place in the concentration camp--when you said that that was dictated, just what did you mean? Dictated by whom? Aren't you the author of the Report?

A The preliminary reports to the Weekly Reports were dictated by me. If, however, a conclusion is to be drawn from the phrase which was used in that particular question, that we in principle approved of the mistreatment of inmates and only had the desire not to have such mistreatment take place on our own construction site but within the walls of the concentration camp--then that, in my opinion, is an absolutely contentious opinion. Anyone who did know the construction site and any man who was acquainted with the men who were in leading

positions at the construction site, and, above, all, a man who was acquainted with Farben's tradition and, in particular, with the tradition of the Badische Anilin und Sodafabrik, could not possibly share any such interpretation of that phrase, if I may put it that way.

Q That is very touching, Mr. Witness, only that wasn't the question. The interpretation to be given to the minutes of the meeting is a matter for the court alone. The only question I was interested in was when you said those words were dictated, whether you wanted to create the impression that somebody else dictated them. I want to make it perfectly clear that those reports, and this particular report, was dictated by you personally. Now, that is true, is it not?

A Yes, the report was dictated by me.

Q What conclusions and inferences will be taken from it the court will do on its own.

Now, witness, you said that the man in charge of labor allocation and all social questions was Mr. Rossbach, isn't that right?

A Yes.

Q Now, Rossbach would be the one person in I.G. Auschwitz who would know more about labor allocation and social questions than anybody else in I.G. Auschwitz, is that right?

A Pardon me, I didn't quite understand your question.

Q Well, all questions of personnel and social questions which are in Rossbach's department, he would be the one person in I.G. Auschwitz who would have the most information concerning all those questions of personnel and social questions. Isn't that correct?

A No doubt.

Q Thank you. Mr. Witness, when you say that Rossbach gave directives or gave instructions as to labor allocation, you don't mean that Rossbach did that on his own. Didn't he receive directives from somebody else?

A I must clarify one thing first. We must clarify the concept of labor allocation. Naturally, Dr. Rossbach had no right to issue technical directives, and I think we are all clear on that. On the other hand, the procurement of the workers, the housing of the workers, in the housing camps which were made available to them, the wage questions, the extent of their bonuses, etc., — that was a matter for the Social Department under the leadership of Rossbach.

Q Now, Mr. Witness, I think we can get back to the original question. Now, from whom did this man Rossbach receive his instructions and directives?

A From the Works Management, as all other main department chiefs.

Q Now, Mr. Witness, isn't it a fact that Rossbach received his directives from the defendant Duerrfeld?

A I said the Works Management.

Q I want to make it clear that it isn't some board, that it is a particular human being.

A From the works manager, Dr. Duerrfeld.

Q. Thank you. Now, you just testified that in view of the Farben tradition it was impossible to think in terms of their seeing unfortunate inmates beaten. Now, do you recall, Mr. Witness, stating in one of your weekly reports which you wrote and signed that the lack of discipline among the Polish workers was absolutely shocking and that every type of pressure, even commission to the concentration camp, remains without effect and then you state in this respect it is only to be regretted that the construction management itself has no disciplinary powers and that your experience so far has shown that only brute force has any effect on these people.

Now, do you recall having written that in one of your weekly reports?

DR. HOFFMANN: Mr. Commissioner, I only have one objection. I think that this weekly report should be put before the witness in order that he may refresh his memory. It is difficult to ask him after so many years have elapsed to reply to this question without being able to see the entire report.

THE COMMISSIONER: Are you willing to do that, Mr. Minskoff?

MR. MINSKOFF: I have no objection to his seeing it if somebody has a copy here. It is in evidence as Prosecution Exhibit 1988, NI-14556. I didn't bring it along because we hadn't thought of going into the question of weekly reports until it was brought up by the Defense.

THE COMMISSIONER: What you have read is an extract of it?

MR. MINSKOFF: I have no objection to his seeing it if somebody has a copy here. It is in evidence as Prosecution Exhibit 1988,

NI-14556. I didn't bring it along because we hadn't thought of going into the question of weekly reports until it was brought up by the Defense.

THE COMMISSIONER: What you have read is an extract of it?

MR. MINSKOFF: That is correct. It is in evidence. It is part of the weekly report written by this witness.

THE COMMISSIONER: Is that an extract from a written report? You haven't quoted it from memory, have you?

MR. MINSKOFF: No, I have quoted the actual text but I have an English draft of the text and that wouldn't help the witness too much. If he could read English I'd be happy to show him this portion.

THE WITNESS: Mr. Commissioner?

THE COMMISSIONER: Just a moment, witness, yes, Dr. Hoffmann?

DR. HOFFMANN: In spite of that, it isn't the witnesses fault that he has to testify on this matter — and since it is important enough perhaps a brief period can be dedicated to obtain the report. I am prepared to get it myself but the connection, in general, is quite different from what has been quoted here from a great number of pages.

MR. MINSKOFF: I have read to the witness the precise portion of the document now in evidence which deals with the question at hand — namely, the treatment of these workers who are assigned to I. G. Farben and where this witness himself in his own report states that from his experience only brute force has any effect on these people and I ask the

witness whether he recalls having made such a statement in his own weekly report,

THE COMMISSIONER: I think the witness may answer.

MR. MINSKOFF: Mr. Commissioner, I even have the document now. I have just been given a copy of the document and I would be happy to have the witness see it.

THE COMMISSIONER: Very well.

THE WITNESS: Mr. Commissioner?

THE COMMISSIONER: You may proceed, Mr. Witness; go ahead. What were you going to say?

A. Mr. Commissioner, I know that passage contained in that weekly report. I should only like to ask that the translation be corrected. The original documents contains the word "Braichialgewalt" which is translated "with brute force". In the German usage of language that makes a considerable difference.

Q. Well, for the purpose of the question that I put to you I don't think the distinction would be very helpful. The part was written by you and it speaks of using force as the only means of getting any work or any effect out of these men. Isn't that so? Doesn't that show the Farben attitude?

A. Mr. Commissioner, I must insist that this translation be corrected. I emphasize once more, "Braichialgewalt" and "Brutalgewalt" are different things.

THE COMMISSIONER: Mr. Minskoff, it occurs to me that possibly it would help us if the witness indicates what should be put in place of

the words he objects to and then you may question him on the document as revised.

Mr. MINSKOFF: I will be happy to hear what the witness thinks ought to be the proper translation.

THE COMMISSION: Ask him what is the proper translation.

BY MR. MINSKOFF:

Q. Mr. Witness, what do you think the proper translation is of the two words you used in your report?

A. Every one who knows Latin can easily answer that question. "Brachialgewalt" means "manhandling" -- this is the literal translation of "Brachialgewalt".

Q. You mean physical force rather than brute force?

A. Yes, physical force. You're right.

Q. Mr. Witness, now let me see your words instead of the ones I used and see if we can't arrive at some answer. Now, the portion that I read to you stated that: "Every type of pressure, even commission in the concentration camp, remains without effect. In this respect it is only to be regretted that the construction management itself has no disciplinary powers. Our experience so far has shown that only physical force has any effect on these people."

Q. Now, is that the portion that you wrote in your own weekly report in connection with the workers of I. G. Farben's Auschwitz Plant? This is correct, the way I read it now, is it not?

A. Yes, now, I can answer your question. Before I raised this objection on account of the translation. Now, I am absolutely prepared

to answer your question.

Q. Please.

THE COMMISSIONER: Go ahead, please.

A. An answer cannot be made with a few words because here again I am talking to laymen who have never themselves experienced the construction of a huge site and who have never experienced what one is confronted with when there is such a large accumulation of human beings belonging to all nations and to all sorts of types.

Not once have I discussed these matters in my weekly reports but I think there are at least three or four similar passages which are touching upon that very same question. I don't want to make any bones of it. I don't want to hide it because it is my conviction that every expert who had to solve the problem with which I and all of us were confronted there would grasp these matters much quicker than a layman who has never yet experienced any such matter.

If, then, I am talking of physical force in these reports, the reason, as a rule, was one of these cases which were already discussed this morning. It was a case where a civilian used force on, I don't know who it was either, an inmate or civilian worker. As a rule, they were capable foreman and masters, who had very great experience and long standing, who in despair resorted to such measures. I must mention a few examples.

Q. One moment, Mr. Witness; the question that I put to you was far more basic than the answer you are giving. The question put to you

wasn't what happened in some cases on a construction site and what civilians may have done on the construction site. I am speaking now about the attitude that you personally expressed in the weekly report for the construction management, when you say that it is regrettable that you have no disciplinary powers and that your experience shows that only force, physical force, has any effect on these people. I am not speaking there of what one or two foremen might do who can't contain themselves. I am speaking about you, a top engineer at I. G. Auschwitz.

A. Mr. Minskoff, if you had let me finish I would have gotten to the core of your question at once, but I must modify the question and answer to a certain extent in order to be able to extract the true sense of these remarks and in order to make it comprehensible.

If, for instance, a foreman found one of his switch operators sleeping I had all understanding for him if he slapped or pushed this switch operator's ribs. I regard this type of punishment far more effective and far more lenient to the person concerned than if he was punished officially through official channels.

You must take into consideration what it means if any switch operator is found asleep at his post. You can imagine how dangerous it was if you take into consideration the railroad system at the site. If you had ever experienced any collisions of railroad trains — and that didn't happen at Auschwitz but at other construction sites where I was — if you had ever seen that workers were mutilated, squeezed inbetween the wagons, then you will realize what a responsibility is

8 May 48-A-DC-15-7-Primean (Ramler)
COURT VI, CASE VI, COMMISSION

borne on the one hand by the switch operator and on the other hand, to a much greater extent, by the superior foreman; and in the final analysis it was a responsibility they both assumed.

If the word "disciplinary power" is used I only refer to such cases. All these remarks are only in reference to these experiences at the construction sites.

Q Mr. Witness, if it is true, what you now tell the Court, - that is only in case of these dangerous things like railroad employees falling asleep at the switch, - that it might be justified, let me ask you this: Do you recall in the report which you issued and signed, - another weekly report, - in speaking about the cold weather at Auschwitz, and saying it had a devastating effect; then you state that on one day, "we had 2700 slackers; although our work security detachment had seen to it that these people left their barracks; we had coke fires buckets put up with the result that dozens of people stood around and did no work", and then, Mr. Witness, you state, "Can one therefore blame a foreman or a shaft supervisor for hitting out?" Then you add, "In spite of this, this sometimes very salutary use of force has been absolutely tabooed according to the latest directives of the Sauckel office".

Mr. Witness, when you are speaking of striking out, and hitting these workers, you were speaking of persons warming themselves by a fire because they are freezing; not persons asleep at a switch; isn't that true?

MR. HOFFMAN: I should put the document to the witness, Commissioner.

A I cannot understand what the fact that people were warming themselves at the construction place has to do with physical force.

BY MR. MINSKOFF:

Q Supposing you read your own report, and maybe that will refresh your recollection as to the connection between the two. You speak of persons who were warming themselves around the fire because it was freezing cold, and you add your own comments voluntarily, "No one can blame a foreman or shaft supervisor for hitting out" and your remark there that this very salutatory use of force has been absolutely tabooed, but not tabooed by Farben, but by the Labor Office, by Sauckel's office.

THE COMMISSIONER: What was your question on that matter, Mr. Minskoff; what is it; what is the question on that matter?

MR. MINSKOFF: The witness has just stated in answer to previous questions in justification for the use of force on some of the workers, that it was only used in those very very few cases like a man being asleep at the switch.

THE COMMISSIONER: I understand that.

MR. MINSKOFF: And now I am asking the witness whether or not it is not true that in cases where the unfortunate workers just warmed themselves by a fire, this same man did not justify use of force against them.

THE WITNESS: It seems to be your opinion, Mr. Minskoff, that in those cases it would have been more correct on our part to report these 2770 loafers who were absentees, to the Labor Office, then leave it to the Labor Office to report them to the Gestapo, and then leave it to the Gestapo to either

put them into the prison or the concentration camp. I am convinced, Mr. Minskoff, that if I had done that with these 2770 people, you would have blamed me for that in the same way today.

* Now, Mr. Witness, that brings me to another question. You mentioned before that this striking, or this use of physical force was a question of slapping or striking with a stick, -- nothing very important. Now in your report you yourself point out that against these same persons every type of pressure remained without effect. Now listen to this: "Even commission to the concentration camp". Now is it your testimony that these workers were more thoroughly disciplined by a mere slap or a push, than by going to a concentration camp?

A I said before that any such reminder -- and it was not more than that -- is far more effective and far more humane, if I am to use that expression, than any commission to a concentration camp.

* I think you are correct, Mr. Witness, but that is not the question. If it is so much more humane, and is so much better for the workers, how was it, it is more effective against the worker; why is he more worried and frightened and beaten into submission by a mere slap than the threat of this horrible concentration camp?

Let me repeat that: Mr. Witness, if all you are talking about is a slap or a push, is it not inconceivable that such

a slap or push would have more effect on workers whom you otherwise could not control, than even threatening to put them into concentration camp, and actually putting them there?

A I am convinced of that. I am convinced it is very effective.

THE COMMISSIONER: That question is answered now, Mr. Minskoff.

Let's have another.

BY MR. MINSKOFF:

Q Mr. Witness, there has been much questioning, particularly by Defense Counsel, of other witnesses, and yourself, on the affidavit, as to what is contained in the affidavits themselves, and what's contained in the various interrogations that are made before you signed the affidavit. I would like to ask you this. You have given six affidavits for the Defense which have been introduced in evidence in this case; isn't that right?

A Yes.

Q Now in those six affidavits you discussed a few very limited subjects, such as pay of inmates, percentage of workers for Farben as against workers for construction firms, air raid shelters, but you did not mention any of the important issues with which we are concerned in this trial, and which you would know about because of your position. Now let me ask you, Mr. Witness; when you discussed the facts at Auschwitz, with the Defense Counsel, did you talk to them

at all about how the site was chosen?

A This question was discussed.

Q Did you mention at all about the knowledge you had that there was a concentration camp at Auschwitz before the site was chosen?

DR. SEIDL: I object to that question because it is not within the frame of this witness' affidavit. The affidavits were drawn up on behalf of the defendant Duerrfeld for the most part. The Prosecution itself does not assert that the defendant Duerrfeld had anything to do with the selection of the terrain upon which the plant was to be constructed. The defendant, Dr. Duerrfeld, only in the course of March, 1941, learned of this new plant to be constructed, and that is the reason why nothing of the witnesses testimony was incorporated into the affidavit.

THE COMMISSIONER: Mr. Winkoff I would suggest that you state for the record the relevancy of your question.

MR. WINKOFF: I would be happy to, Sir. The Defense, and particularly Dr. Seidl, he may recall, in the last several witnesses before the Commission asked the witnesses in connection with affidavits they had signed for the Prosecution whether they had not talked about other things, and whether the interrogation did not include many facts which were not in the affidavit, and then they asked the witness, "Well how is it that these facts are not in the affidavit even though

they were in the interrogations," and now I ask this witness, how is it--

DR. HOFFMANN: Mr. Commissioner -

MR. HINSKOFF: Let me finish my question.

THE COMMISSIONER: Mr. Hinskoff, go ahead.

MR. HINSKOFF: I asked the witness how is it that these various things he talked about, with the Defense Counsel, concerning the site, concerning the concentration camp, concerning labor, the seeking of concentration camp inmates, which was certainly Duerrfeld's field, - why these things were not in the six affidavits he gave to the Defense.

DR. HOFFMANN: Mr. Commissioner, first I should like to state that Mr. Hinskoff, for the first thing, has to say that if he discusses the Defense he has to except me personally. I have never spoken to the witness Faust beforehand; secondly, I should like to ask the Prosecution if it is forbidden to talk to a witness, even if one did want to. Thirdly, I want to ask the Prosecution whether or not they do that themselves, and fourthly, I want to know if a cross examination is at all possible, if it is carried out and one did not afterward tell why one is trying to seek fact from the witness, which should have been put into the affidavit according to the opinion of the Prosecution, and therefore suddenly are no longer to be valid. Then I don't have to cross-examine the witness at all.

THE COMMISSIONER: Dr. Hoffmann, that is material that will come before the Tribunal itself on these objections, and all I want to get in here is the grounds of your objections, and the defense to your objections, and then let the Tribunal adjust the matter when it settles these objections, and I really would like to have as little argument between counsel, - that is personal argument on these matters, - as possible, because it wastes our time as well as it is irrelevant.

Now I think you may proceed with your question. I think the record is clear as to the position of both parties.

MR. WENSKOFF: I would merely like to state, in answer to Dr. Hoffmann, we did not intend to include Dr. Hoffmann personally because he had not asked that type of question. As to his questions about whether permitted to speak to the witnesses, of course it is permitted, and as to whether the Prosecution does the same thing, of course we do. But the only reason that this question is put, is that time and again witnesses have been asked to explain, on cross-examination, just now it is that many things which the Defense thought was relevant, was not included in the Prosecution's affidavit. They have asked them, "Did you speak to the Prosecution about this fact or that fact". The witness says, "Yes". Then they ask, "Why isn't it in your affidavit?"

Now we are asking this witness, who has now given six

8 May 1946-A-MSD-16-8-Stewart (vonSchon)
COURT VI, CASE VI COMMISSION I

affidavits to the Defense, how he can explain why it is that in all of the vital things of which he has personal knowledge like the weekly reports, the concentration camp inmates procurement, the choosing of the I.G. site, why, as to all of these things, there is not one word in any of the affidavits, if he spoke about those things to the Defense.

That was the purpose of the question.

THE COMMISSIONER: Now let's get a question on that. Why did he omit certain things, that is the question. Why did he omit certain alleged facts.

You may answer the question, Mr. Witness.

8 May 48-A-DC-17-1-Goldberg (Ramler)
COURT VI, CASE VI, COMMISSION

A. That is very simple to answer, Mr. Minskoff, I replied to what I was asked; that's all.

MR. MINSKOFF: Thank you very much. That's the answer.

DR. SEIDL: Dr. Seidl, Counsel for Dr. Duerrfeld.

RE-DIRECT EXAMINATION

BY DR. SEIDL:

Q. Witness, did I ever ask you or did I ever put a written questionnaire to you about the reasons which were decisive for the construction of the 4th Buna Plant of Farben at Auschwitz and nowhere else?

A. No.

Q. I have another question to put to you. The Prosecution repeatedly asked you about the weekly reports. Two weekly reports were put to you which commented upon the beatings which occurred at the construction site. You have tried to explain that and you have tried to show how it is possible that certain difficulties came up at such a large construction site. I want to ask you this: How is it possible that these few single cases could only be observed in 1941 and the beginning of 1942 and therefore gave reasons to your comments in the weekly report, and why later such reports can no longer be found?

MR. MINSKOFF: If it please the Commissioner, the only reason that the weekly reports show 1941, 1942 and some of them 1943 is that we can't find the balance of the weekly reports which aren't available

to the Prosecution. What they show I don't know.

THE COMMISSIONER: Are you objecting to Dr. Seidl's question?

MR. MINSKOFF: I think the question is leading.

THE COMMISSIONER: Let him answer it. You may answer, Mr. Witness.

DR. SEIDL: I should like to state for the record of this Commission that we made available all the weekly reports to the Prosecution, inclusive of those of the year 1944.

BY DR. SEIDL:

Q. Now, witness, I should like to ask you to reply to my question.

A. This question is also very, very simple to answer too. It is a natural that in the course of the years the entire conditions at the construction place consolidated and improved considerably. As a consequence the discipline improved. That is actually the only reason.

DR. SEIDL: I have no further questions to the witness.

THE COMMISSIONER: Has the Defense any further questions for this witness? There appears to be none. Are you finished, Mr. Minskoff?

MR. MINSKOFF: No further questions for the Prosecution, sir.

THE COMMISSIONER: The witness is excused. Now, I will ask you, gentlemen, are there any other witnesses to be heard this afternoon?

MR. MINSKOFF: Dr. Seidl says no. We thought there was a Mr. Savelsberg but apparently he is not here. So I guess the information presently is that there is no further witness for this afternoon, sir.

THE COMMISSIONER: Very well. This hearing will adjourn subject

8 May 48-A-DC-17-3-Goldberg (Ramlor)
Court VI, Case VI, Commission 17

to further notice.

(The Commission adjourned subject to call.)

10 May. 48-M-GJ-1-1-Mills-(Von Shbon)-
Court 6 case 6

Official Transcript of Military Tribunal
VI, Case VI in the matter of the United
States of America, against Carl Krauch,
et al, defendants, sitting at Nuernberg
Germany, on 10 May, 1948, Justice
Shake presiding.

THE MARSHAL: Persons in the court Room will please find their
seats. The Honorable, the Judges of Military Tribunal VI. Military
Tribunal VI is now in session. God save the United States of America
and this Honorable Tribunal. There will be order in the Court.

THE PRESIDENT: Make your reports, Mr. Marshal.

THE MARSHAL: May it please Your Honors, all defendants are present
save the defendants Haeffliger and Hoorlein, absent due to illness.

DR. HENZKE: Mr. President, I ask that Dr. von Schnitzler be excused
at 10:00 o'clock to attend the session before the Commissioner.

THE PRESIDENT: Are there any other defendants that wish to be
excused from this morning's session?

DR. BISMANN (For Leutenschlaeger): The witness Professor Bieling
has been called for cross-examination. I have just received a medical
certificate from the Marburg University clinic to the effect that
Professor Bieling has an infection and can not appear before the Tri-
bunal this month. I inquired in Marburg and learned that the witness
is at home in bed and could be examined there. I therefore ask a ruling
of the Tribunal that Professor Bieling be examined by the Commissioner
in Marburg of the Lahn.

THE PRESIDENT: The defendant von Schnitzler will be excused
to attend the commissioner's hearing this forenoon. Was it the attitude
of counsel now with respect to this witness of the defendant Leutenschlaeger?



Perhaps, gentlemen, you had better talk it over informally and see if you can agree on some program and we will call it up later this morning. At recess time we can talk it over. Anything else on behalf of defense counsel this morning? Anything from the Prosecution Just a moment, I think Dr. Dix, has something to say.

DR. RUDOLF DIX: Mr. President, I shall hand the Secretary General a very brief motion referring to Exhibit 2236 in Book 94. This is the affidavit of Wolffsohn. Under the date of 5 May I submitted a motion that the affidavits of Schmitz, Schnitzler and Lautenschlaeger submitted together with this motion, be stricken insofar as they incriminate co-defendants. The same application is necessary with respect to the new Wolffsohn affidavit because it contains statements of the defendant von Schnitzler. I therefore ask that in Exhibit 2236, those passages be stricken which quote the defendant von Schnitzler insofar as these quotations incriminate his co-defendants.

THE PRESIDENT: Hand your motion to the Secretary, Dr. Dix, and the Tribunal will dispose of that matter after the evidence is closed.

MR. SPEECHER: Mr. President, we believe it would be appropriate at this time to clear up the record with respect to a number of outstanding matters on document and exhibits. I am giving copies of this statement to the defense so they can immediately check it for errors, etc.

The prosecution and the defense, through Dr. Bachem, have arrived at a stipulation with respect to Exhibit 2342 (NI-15173), a sworn interrogation of Josco von Puttkamer which was used and introduced during the cross-examination of the defense affiant Gadow on 3 May 1948 before the Commissioner.

It is stipulated that only the last three questions and answers of this interrogation are to be considered in evidence. The defense agrees in this connection that von Puttkammer will not be called for examination.

THE PRESIDENT: Now, will you please, for verification, repeat that Exhibit Number.

MR. SPEECHER: Exhibit 2342.

THE PRESIDENT: Thank you.

MR. SPEECHER: During the presentation of prosecution documents in Document Book 84 on 24 November 1947, Mr. Minskoff, at page 4237 of the transcript confused two series of document numbers. He stated Document NO-1315 is already in evidence as Prosecution Exhibit 489." Actually Exhibit 489 is NI-1315. Document

NO-1315 should therefore be assigned the next exhibit number in order to clear the record on this point. NO-1315 appears in Document Book 84, English page 31, German page 45. It will become Prosecution's Exhibit 2255. You should also correct page 2a of the index to Document Book 84, striking from under Document NO-1315 the Exhibit Number 489 and substituting Exhibit Number 2255.

During the cross examination of the defendant Wurster, on 12 April 1948, Prosecution's Exhibit 2118 (NI-14031) was offered in evidence. The defense raised some question about this exhibit, arguing that it was not dated and that it did not bear any signature. The prosecution stated at that time that it would supply more detailed information as to the source and origin of the document, otherwise the document was to be stricken. In this connection we now introduce NI-15289 as Prosecution's Exhibit 2256. This is a certified declaration executed by two police officials of the Netherlands. It shows, among other things, that the document came from the Regional Labor Office files in the Netherlands.

During the interrogation of the defense witness Holmut Schneider on 14 April 1940 before the Tribunal, the witness and defense counsel raised some point about certain corrections to Schneider's affidavit which he had given to the prosecution by letter of 4 May 1948, directed to interrogator von Halle. The Tribunal asked that the prosecution supply the actual text to supplement the corrections as they were noted in a footnote to the affidavit itself. This letter of the witness Schneider is NI-15150 and is now offered in evidence as Prosecution's Exhibit 2257.

On 10 February 1948 Dr. Nolte made a motion to strike Prosecution's Exhibit 1715, NI 12452, an affidavit of Dr. Tomkos, because certain sick

reports mentioned therein were not available for his inspection. The Tribunal later said that it would strike this exhibit unless the sick reports were obtained. These sick reports have been obtained and copies were given to Dr. Helte last week.

The prosecution would also like to make a statement at this time concerning the status of exhibits offered or identified in evidence between 13 April 1948 and last Saturday, the 8th of May 1948. Your Honors will recall that on 20 April 1948, the prosecution made a statement giving their view with respect to prosecution exhibits offered or identified up through 12 April 1948. The prosecution exhibits used between 13 April 1948 and last Saturday, 8 May 1948, include prosecution exhibits 2122 through 2254 and 2307 through 2349. These include, of course, the exhibits used both before the Tribunal and before the Commissioner. The exhibits will again be treated by categories to avoid repetition. I will not mention the document numbers in order to save time. You can obtain the document numbers by reference to the list of prosecution exhibits which will be mimeographed today and circulated.

Category I, Rejected Exhibits: The following exhibits all contained in Prosecution Document Book 92 (Rebuttal Book I) have been rejected by the Tribunal: 2154 through 2158, 2161 through 2166, 2169, 2171, 2172, 2174, through 2179, and 2183 through 2190.

Category II, Exhibits Marked for Identification only: The following exhibits were marked for identification only and the Prosecution has not offered them and does not now intend to offer them in evidence: 2133, 2134, 2145, 2180, 2181, 2182, 2191, 2308, 2310, 2313, and 2347.

Category III: This includes the exhibits which were marked for identification pending the further processing of the documents and which we now formally offer or reoffer in evidence, as the case may be. In all cases distribution has been made through the regular channels of the Defense Center or otherwise to defense counsel -- Exhibits 2131, 2132, 2135, 2322, 2325, 2326, 2335, and 2341.

In summary then, with respect to prosecution exhibits 2122 through 2254 and 2307 through 2349, it is the prosecution's view that all of those exhibits are now in evidence with the exception of those listed under the first two categories above.

Since the prosecution made its first report on the status of prosecution exhibits on 20 April 1948, the Tribunal, on 3 May 1948, struck from evidence prosecution exhibit 939, NI-11334.

A prior correction to the statement of 20 April 1948 concerning prosecution exhibits on 20 April 1948, concerning prosecution exhibits 1292 and 1600, respectively an affidavit and interrogation of Gswald Pohl, has already been made on the record of 7 May 1948.

Now, Mr. President, there are about three rather unfortunate typographical errors in the statement on exhibits which we previously made on 20 April 1948. If I could make those now I think it would avoid difficulties for the secretaries of all counsel and the judges.

THE PRESIDENT: You may do so.

MR. SPEICHER: With respect to the statement concerning the status of exhibits which we made on 20 April 1948, English transcript 11881 through 11886, there are several typographical errors which we would

now like to correct. At the middle of page 11882 of the English transcript, reference is made to "exhibits included in Document Book 89." The mimeographed copy incorrectly shows a figure which could be misconstrued as 69. Document Book 89 is correct. At page 11883 of the transcript under Category 3, there is an exhibit number opposite Document Number NI-11780 which is not plain. This should be exhibit number 849, Document Number NI-11780. At page 11884 of the transcript the document number of Prosecution Exhibit 1838 is not clear. It should be NI-9540-C. On page 11886 of the transcript two exhibits with the number 1869 are listed. The first exhibit so listed should be Prosecution Exhibit 1868. The NI number for exhibit 1868 is also incorrect. It should be changed from NI-14003 to NI-14002. Also at page 11886 the Prosecution Exhibit 1924, NI-14243, should be stricken entirely. This exhibit is properly listed under Category II at page 11885 of the transcript.

THE PRESIDENT: Unless there is objection or correction pointed out by counsel for the defense, the record suggested by the prosecution will be considered made on the record of the Tribunal.

DR. HELTE (Counsel for Hoerlein): Mr. President, Mr. Sprecher has just said that the sick reports of Dr. Tondos, belonging to Exhibit 1715, have been found and that copies of them have been made available to me. Last Friday I received the original of these sick reports from the prosecution. In the meantime I have had an opportunity to discuss them with Professor Hoerlein, as well with the defense counsel of Professor Lautenschlaeger. The defense considers it important that these reports be introduced in evidence because if the Tribunal will take the trouble to

compare them with the statements of the prosecution it will observe that their contents do not agree with the prosecution's contentions regarding the activity of Dr. Vetter and the use of "3582" and Ruthenol. These sick reports will be the subject to a statement which I will take the liberty of submitting to you in writing.

THE PRESIDENT: Very well, Dr. Nelte.

MR. HINSKOFF: May I reply with a few words.

THE PRESIDENT: That's all argumentative. We will hear you but make it brief because after all until something is submitted there is nothing before us. You may answer if you wish.

MR. HINSKOFF: I merely wanted to point out that there is no objection on the part of the Prosecution that these records be marked into evidence. Only they are very bulky and copies will have to be made. They are probably a hundred or two hundred pages of reports.

Or the question of merit, may I add some words to it? The Prosecution has pointed out a number of times that these particular cases had no importance and were of no interest to the Tribunal. It was only at the insistence of Dr. Nelte that they were brought down to Poland.

THE PRESIDENT: That's a debatable question of argument. Make your showing, we have not seen them and will consider them for what they are worth. I will say to you, Dr. Nelte, that there may be some merit in the suggestion of the prosecution about overloading the processing agency with too much translation and mimeographing. If you gentlemen can confer and work out some way to abbreviate the problem of translation and mimeographing, it might be helpful because we are under a great deal of pressure right now, anyway.

DR. NELTE (Counsel for defendant Hoerlein): Mr. President, when the prosecution gave me these sick reports they told me that there was nothing in the reports that would be of interest for the Hoerlein and Lautenschlaeger cases because, so the prosecution said, these reports refer to the treatment of tuberculosis cases. Thereupon, I told the prosecution, since the affidavit of Dr. Tondos who was the head of the tuberculosis department at Auschwitz also refers only to the treatment of tuberculosis I would be agreed if they wanted to withdraw the Tondos affidavit, to also forego these reports, as then I would not be interested in having these particular reports introduced here; but the prosecution wants to offer the Tondos affidavit and says that it is relevant while I consider that the sick reports are relevant since

the Tondos affidavit speaks of the improper treatment of tuberculosis cases.

THE PRESIDENT: Well, we have long since abandoned all hope of complete agreement between counsel for the prosecution as to all issues in this case. You gentlemen talk about it informally at recess and if you can offer a suggestion that will help lighten the loads of processing, well and good; if you cannot and you want us to examine and inspect the original documents, we will do that with the aid of an interpreter; but bring the matter to a head today and tomorrow and we will dispose of it somehow.

We will hear you, Dr. Dix.

DR. DIX: Mr. President, I may reserve the right for my colleagues to comment on this statement just read by the prosecution until tomorrow so that they will have time to read it carefully.

Something else: the Tribunal will remember my application for my client in reference to Ordinance No. 1 of the American Military Government, which was brought up during his interrogation. In my last application I included the copy of a record of interrogation of Schmitz at which, according to the text of this copy, his attention was called to this ordinance and he was asked whether he read it. He said "yes." I asked the prosecution for the purpose of a stipulation to check whether this copy of mine agreed with the original. The prosecution made a counter proposal for a stipulation, an examination of the defendant von Schnitzler on the subject limited to very definite questions specified by the prosecution.

According to a principle which is surely correct, that one never makes any promises and agreements unless they are subject to one's own will, I do not want to enter into this stipulation because, so far as I am informed, Mr. von Schnitzler will not go into the witness stand. Therefore, it would be practically impossible to carry out this stipulation.

I would be grateful to Mr. Sprecher if, before the end of the proceedings, he could make a statement as to whether he can check this text of this record and stipulate with me.

MR. SPRECHER: The two matters, in our view, are not exactly overlapping. We have been unable in this short period of time to check this interrogation of which Dr. Dix says he has a copy. For the purposes of this proceeding we will stipulate on the basis of Dr. Dix's statement, that such an interrogation did take place as indicated in his motion.

THE PRESIDENT: I believe, Dr. Dix, that you said to the Tribunal that if the prosecution would accept your statement as having been made that that would obviate the calling of witnesses on your part to substantiate your facts. Is that true? In other words, it will now raise a question of law for the Tribunal to pass upon rather than one of fact to be first determined.

DR. DIX: That is my opinion, Mr. President. I don't want to be misunderstood. It is my opinion that if the quoted text of this record is stipulated it will not be necessary to call witnesses. I am not sure that I think a legal question will remain to be decided by the

Tribunal.

THE PRESIDENT: You are correct in that regard.

Now, counsel -- and I am addressing this inquiry primarily to counsel for the prosecution -- in other words, do we understand, Mr. Prosecutor, that you are willing to stipulate for the purposes of the matter under controversy that the interrogation, the questions and answers that were contained in the showing made by Dr. Dix are correctly reported to the court in Dr. Dix's statement?

MR. SPRECHER: That is correct, Mr. President.

THE PRESIDENT: Very well. That puts that matter at rest for the time being. By that I mean to say that, in view of the prosecution's stipulation which the Tribunal now accepts and the position stated by Dr. Dix, the Tribunal sees no necessity of hearing any further evidence on that issue. Very well.

DR. DIX: Then one more small matter for the defense as a whole to avoid misunderstanding. Mr. Sprecher said that certain documents from Books 93 and 94 are before the Tribunal. I may assume that we are still awaiting a decision of the Tribunal as to the admission of the documents to which objections have been made?

THE PRESIDENT: All right; if there is nothing else to come before the Tribunal at this time we will proceed to rule on the motions to strike certain documents contained in Prosecution Books 93 and 94.

First, directing attention to the Prosecution's Book 93, I shall not take your time to make formal rulings that the objections are sustained or anything but I shall indicate the ruling of the Tribunal

by designating the document as admitted or rejected. You will know what that means.

The Prosecution Exhibits -- I am referring now to Book 93 -- 2199 and 2201 are admitted in evidence subject to the right of the defendant Krauch to answer them.

Prosecution's Exhibit 2211 is stricken from rebuttal documents in Book 93 but this ruling has no application to the use of that document in cross examination before the Commission.

Prosecution Exhibits 2209, 2210, 2212, 2214 and 2218 are stricken from the evidence as not proper rebuttal. That disposes of all of the documents that have been called to our attention in Book 93.

Now, in Book 94, Prosecution's Exhibit 2221 is stricken from the evidence because it is already in evidence in the cross examination of the defense witness Huenermann and, therefore, has no proper place in this Document Book 94.

Prosecution Exhibits 2223, 2224, 2225, 2226, 2227, 2228, 2229 and 2230 are each stricken.

Prosecution's Exhibit 2236 is admitted in evidence as far as it is applicable to the special issue as to the weight to be accorded to the affidavits of the defendant von Schnitzler and to the interrogatories in evidence.

The Tribunal wishes to make the observation that if there is to be further evidence on this issue the matter will be referred to a commissioner under the direction of the Tribunal.

Prosecution's Exhibit 2238 is stricken from the evidence.

Prosecution's Exhibit 2240 is admitted in evidence.

Prosecution's Exhibits 2241, 2242 and 2243 are stricken from the evidence.

Prosecution's Exhibit 2244 is admitted in evidence.

Prosecution's Exhibit 2247 and 2248 are stricken from the evidence.

Another matter: Defense Exhibits BW-45 through 52 inclusive are stricken and rejected from the evidence on the motion of the prosecution.

Now, gentlemen, if any of you have any difficulty in following these rulings because of translation we will be very glad to afford you an opportunity at this time to make any specific requests for repetition of the rulings if you do not have them.

Now, so far as we are advised, that takes care of all of the pending motions with reference to each except one particular motion that was filed by Dr. Boettcher which was filed in the German and we have the prosecution's response to it, relating to some documents in the 1800 series of the prosecution. Unfortunately, when we were in conference Saturday we did not have the facilities of an interpreter and we are having this document translated this morning so we can give some consideration to that and we are hopeful during the day we can likewise dispose of that motion.

As we already indicated, we do not intend to concern ourselves with rulings on the Commissioner's record except as to the pending motion but I shall now clear up that record on the motion filed by Dr. Dix on behalf of defense counsel.

The objection found on page 95-96 of the English transcript of the Commissioner's report is overruled. May I say that on the list furnished us we think there is a typographical error. The ruling was indicated as being on page 93-96 but we found that it was on 95-96. I think this must be the matter that was complained of because there was no objection on 93-96.

The objection on page 10885 is sustained. The objection on page 10893 is sustained. The objection on page 10895 is overruled. The objection on page 11154 is overruled. The objection on page 11159 is overruled; and, to abbreviate, may I say that the objections separately and severally on pages 11160, 11172, 11464, 11466, 11477, 11478, 11480 are each overruled.

The objections on pages 11485 and 11711 are each sustained. The objections on page 11866 and 12113 are each overruled. The objections found on page 12349 and 12350 are sustained and, finally, the objections found on pages 12477 and 12482 are each overruled by the Tribunal.

DR. SIEMERS (Counsel for defendant von Schnitzler): Your Honors, there is just one thing that I would like to bring up, since I have to go to the Commission at ten. The Tribunal has just referred to Exhibit 2236. That is the Wolffsohn affidavit and that is admitted into evidence.

Under the circumstances, may I ask that another point be clarified? During the session of 29 August 1947 I brought up the fact that pressure was exerted on Dr. von Schnitzler in 1945 during the interrogation in the Prungesheim. Thereupon the Tribunal decided that events in 1945 could not be brought up. Since I had to prove that there was pressure in 1947 when the affidavits offered here by the prosecution were prepared, I have acted accordingly. The Wolffsohn affidavit deals with events in 1945 and 1946 in Cransberg. They are offered to prove that in 1947 no pressure was exerted.

I believe if I am not to be allowed to describe what happened in 1945 to prove that there was pressure in 1947 then the prosecution has no right to bring up things that happened in 1945 and 1946 to prove that there was no pressure in 1947. I, therefore, ask that the parts of this affidavit which deal with earlier events be stricken. I am referring to Exhibit 2236 in Book 93, those parts which deal with events before 1947 — that is events in 1945 or 1946. That is from page 27 in

the German book to the top of page 29, pages 4 and 5 of the original of the Wolffsohn affidavit. If the prosecution is permitted to bring up things that happened before 1947, I believe that I, too, should be allowed to present things that happened before 1947 which I suggested in August 1947.

MR. SPRECHER: Mr. President, it seems to me that Dr. Siemers has forgotten a number of things. We should never have offered this affidavit except for those things which he seems at this moment to have forgotten. You will recall he attempted to put into evidence an affidavit by Mrs. von Schnitzler about one time she concealed something in the V of her dress she underwent a very unfortunate situation and I think Dr. Siemers will also recall that he elicited testimony from the defendant ter Meer concerning this incident, and, apart from that, he made some statements which indicated that it was his view that there must be some weight in some of the evidence which he submitted along that line.

Now if all of that is not evidence and was not intended as evidence, we will be very glad to have this part of this affidavit go out.

THE PRESIDENT: Dr. Siemers, of course, is entirely correct that, so far as admissibility of evidence is concerned, prosecution and defense operate under the same rulings. There is no rule applicable to the prosecution that is not likewise applicable to the defense.

I do not have the record of August 29, 1947 before me but I think I do well recall that at that time a document of a given date was

offered by the prosecution and there was some showing or attempt to show some duress or pressure some considerable time before that. The Tribunal ruled, as I remember -- and the record will correct me if I am in error -- that we were concerned as to whether or not there was any showing of duress or pressure upon the defendant at the time the affidavit then being presented was offered, and we ruled that the matter brought to our attention by counsel for the defense was remote to the time under inquiry so far as the affidavit being offered was concerned.

Now, of course, if prosecution offers some prior or preceding document and the defense has some showing to make with reference to whether or not the defendant was under duress or undue pressure the defendant must be accorded that opportunity and will be accorded that opportunity. However, in the interests of time and the termination of this case, as we have already indicated before, if there are to be any so-called collateral issues raised of that nature, as a matter of necessity we shall have to ask Judge Crawford to conduct the inquiry and determine what the facts are, and bring us a record of the proceedings, at least, so that we can pass upon it.

I just say to you, Dr. Siemers, that you can be assured that you are operating under no rule that is different than that applicable to the prosecution but I think that you will see from examining the record of 27 August that we ruled at that time that your attempt to show some pressure back in 1945 was remote to the issue of whether or not the document offered in evidence and bearing the date of 1947 was

obtained under pressure. Now, we may have a different situation if the prosecution has presented a document executed before 1947 and at other time than you claim that the pressure was active; if you wish to make a showing on that fact along that line, you may do it. As I say, as a matter of necessity we shall be obliged to have the Commissioner conduct the inquiry and report the evidence to the Tribunal.

DR. SIEMERS (Counsel for von Schnitzler): Mr. President, the problem was as follows. The Prosecution offered affidavits of the year 1947. These affidavits, however, contain statements and interrogations of Dr. von Schnitzler of the year 1945. It was decided, then, that I could prove duress only for the year 1947. It is true that the affidavit was of 1947, but now I have only a record of an interrogation of the year 1947, 18 February 1947, and the Prosecution thereupon has offered an affidavit of Wolfsohn which describes not only what happened in 1947 but also what happened in 1945 and 1946. I believe I understand the Tribunal correctly if I now, in turn, am allowed to introduce evidence about duress in 1945 and, secondly, duress in 1947, specially since I believe that the two are closely connected.

MR. SPRECHER: Mr. President, the only reason we have offered the Wolfsohn affidavit is in response to whatever evidence Dr. Siemers may have submitted by way of interrogation of the defendant ter Meer before this Tribunal and by way of some of the innuendos in some of his documents. We think we have satisfactorily met whatever he did in that regard. Now, for that purpose, and that purpose alone, we have offered this affidavit. I didn't want to open by that affidavit on our part any thing new. We are only trying to meet what Dr. Siemers has done, nothing further.

DR. SIEMERS: Mr. President, I can only say: if I examined Dr. ter Meer and in doing so mentioned the year 1945 this was not evidence that I was trying to introduce. The record will show that I only asked Dr. ter Meer about Schnitzler's personality and asked him to

describe it. Of course in doing so Dr. ter Heer spoke of things that happened before the war, during the war and after the war. The affidavit of Mrs. von Schnitzler was not introduced as proof of the duress in 1945 since in itself it has no connection with Dr. von Schnitzler. I am sure it had some effect on the defendant, but I deliberately refrained from bringing that out at the time because the Tribunal had expressly decided that I was not to be allowed to introduce evidence about the duress exerted in 1945, and, as the Tribunal will recall, I was refused very emphatically on this point.

I am asking this now just to find out whether I am to have an opportunity now; of course it is much more difficult for me to introduce evidence at this time. But as long as the Prosecution represents the point of view that all the affidavits are voluntary, I am forced to introduce this evidence, even at this late date, and I'll be able to do so.

Then there is one more question. I understood correctly, I believe, that I am to present this evidence to the Commissioner. I should merely like to know where the cross-examination of Mr. Wolfsohn is to take place. The Tribunal will recall that I asked recently that he be cross-examined before the Tribunal, in view of the fact that this question is of considerable importance.

THE PRESIDENT: What about the production of the witness Wolfsohn for cross-examination, Mr. Prosecutor?

MR. SPRECHER: Mr. Wolfsohn is at my left at the table and is available at any time.

THE PRESIDENT: What else have you to present, Dr. Siemers,

besides the matter of the cross-examination of this witness?

DR. SIEMERS: That depends on the outcome of the cross-examination, Mr. President. I might have to call other witnesses on the same subject. It is difficult for me to tell until I have cross-examined Mr. Wolfsöhn.

THE PRESIDENT: Are you ready to cross-examine the witness now?

DR. SIEMERS: I would be ready, but at ten o'clock already I have to be before the Commissioner because Dr. Winkler is being examined there.

THE PRESIDENT: How long do you anticipate you will be busy before the Commissioner?

DR. SIEMERS: As the Prosecution said, the cross-examination of Dr. Winkler was to take about two hours, I would certainly be available at one-thirty.

THE PRESIDENT: You think you will be through and can be back here by one-thirty, Dr. Siemers?

DR. SIEMERS: I believe so. It is not entirely dependent on me, but on the Prosecution, how long they take.

THE PRESIDENT: Very well. Even if we have to wait for you a bit, we will permit you to cross-examine this witness this afternoon when you can get back here.

DR. SIEMERS: Thank you, Mr. President.

DR. HEINTZELER (Counsel for defendant, Wurster): Mr. President, the Prosecution has just offered NI-15289, Exhibit 2256. I am forced to object to this document. I ask that it be stricken and simultaneously

ask that Prosecution Exhibit 2118 be also stricken. The Tribunal will recall that when Exhibit 2118 was offered during the cross-examination of Dr. Wurster the Defense objected, saying there was no way of telling who had prepared this document, and when. This is Exhibit 2118. It has no signature and no date.

The document offered today, Exhibit 2256, is merely a statement of a Dutch police official who testifies that on the 7th of October 1947 he confiscated Exhibit 2118 from a Dutch woman named Bauhous working at the labor office at Herzogenbusch, which is in Holland. Therefore, Exhibit 2556 merely indicates where Exhibit 2118 was confiscated. It says nothing about where Exhibit 2118 came from, that is, who prepared it, or when. I therefore am of the opinion that Exhibit 2256 does not conform to the order of the Tribunal and ask that these two exhibits be stricken.

THE PRESIDENT: Has the Prosecution anything further to say about this motion?

MR. SPRECHER: The original exhibit does indicate the time period involved as the middle of 1942. It is not dated in the sense that this is an employment card kept in the course of regular business by a German labor office in the Netherlands. And it does show entries made in the course of regular business. We feel that we have identified it and showed its source more than amply by the additional exhibit.

THE PRESIDENT: Is 2256 one of the documents handed us today, Mr. Prosecutor?

MR. SPRECHER: Yes, Mr. President; I have some more copies here.

THE PRESIDENT: That is MI-15289, is that right?

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: Thank you very much.

Gentlemen, the Tribunal will consider this matter on the basis of the presentation made with respect to it in open court and give you a ruling as speedily as possible.

DR. HEINTZELER: Mr. President, Dr. Berndt asked that Dr. ter Meer be excused immediately to attend the Commission.

THE PRESIDENT: Dr. ter Meer may be excused.

DR. HEINTZELER: Mr. President, then I should like to make a remark about Exhibit 2221, in Rebuttal Document Book 94. If I have understood correctly, the Tribunal announced this morning that this Exhibit 2221 was to be stricken as a rebuttal document, but that during the examination of the Defense affiant Huenermann it was offered in evidence. Unfortunately, I do not yet have the record of the examination of the affiant Huenermann, but my recollection is this. In the redirect examination of the affiant Huenermann I brought this document to the attention of the affiant and I referred to a sentence which the Prosecution had included in the index of Document Book 94. If I remember correctly, Mr. Sprecher objected, saying that my reference to the index of Book 94 was inadmissible because the document had been put to the affiant Huenermann but had not been offered in evidence. That is my recollection. Unfortunately I do not have the record to check my recollection, but that is how I --

MR. SPRECHER: Mr. President, I remember the record very clearly,

I think Dr. Heintzeler will agree. I objected to the use of the phrase from the rebuttal book as a leading and argumentative question, and stated very clearly that Dr. Heintzeler could ask for the fact, but that the form of his question was improper.

THE PRESIDENT: Now, what the Tribunal meant to say was that we were striking this document as not being proper rebuttal, but that was without prejudice to any use made of the document in the course of the cross-examination referred to. We are not admitting the document in evidence. We are not striking anything out of the cross-examination of Dr. Huenermann, but the document will not be admitted as a rebuttal document.

DR. HEINTZELER: Did I understand you correctly that the document is not in evidence?

THE PRESIDENT: If the document is in evidence, then the cross-examination is in evidence. If some part of it is in evidence in the cross-examination, that part of it is in evidence. If there are some references to it, they are in evidence. Whatever the record may show on the cross-examination, it will speak for itself. The document is not admitted as a part of the rebuttal in this case.

Now, gentlemen, this seems to have cleaned up the pending matters. We had hoped today to hear two witnesses, or at least one. We have found out this morning that neither of those witnesses are presently available and we may have to wait until tomorrow; probably we will have to wait until tomorrow to hear both of them. In the meanwhile, a large number of documents have been delivered which may be

introduced into evidence, if counsel is present and ready. What we should like to do is call the defendants' names and have their counsel present their available documents and, in line with the suggestion that we made last week, have you offer your additional documents that may not have been processed by giving their document designation and their tentative exhibit number.

Because of the fact that we had planned to do this tomorrow, some of the Defense Counsel may not be available because they are engaged elsewhere; some of them may be before the Commissioner. Under those circumstances, we shall not adopt any rule as to the order in which we shall call the defendants. We will call counsel for whatever defendants are available and ready to proceed and get as much of that out of the way today as possible. Is there any objection to that procedure?.... We can see where there could be none.

Since there is not much notice of this procedure, we are going to rise for our recess a little early this morning and convene after the recess at the regular time, and that will give you about twenty or twenty-five minutes. We will appreciate it if you will take notice of the situation among yourself and be able to tell us when we reconvene who is ready to proceed to present the available documents and to indicate the documents that have not been processed but which you wish to introduce, in the manner in which we suggested last week.

DR. HOFFMANN (Counsel for Ambros and von der Heyde): Mr. President, I would appreciate it if I could offer the documents for Ambros and von der Heyde immediately after the recess, as I am ready.

10 May 48-~~M-1B~~-5-8-Schwab (Int. von Schon)
Court No. VI, Case No. VI.

THE PRESIDENT: We will hear you first, Dr. Hoffmann.

The Tribunal will now rise.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Just a moment, Dr. Hoffmann. On the 20th of April, as shown by Transcript, page 11885 of the English, the Prosecution offered Document NX 14031, as Exhibit 2118 for identification. There was an objection at the time of the offer, upon the ground of a lack of proper authentication of the document.

The Tribunal has today received from the Prosecution its Document 15289, as Prosecution Exhibit 2256 in support of Exhibit 2118. Under the Rules and the procedure that the Tribunal has followed, and which seems to be proper, the Tribunal deems that Exhibit 2256, supplies sufficient information with reference to Exhibit 2118 to make the latter admissible in evidence, and the objection to the introduction of the Prosecution Exhibit 2118 is now overruled.

Are you ready, Dr. Hoffmann?

DR. HOFFMANN: (counsel for the defendant, Dr. Ambros):

Mr. President, at the end of the presentation of my documents on behalf of the Defendant Ambros, I am offering a Document Book C for Ambros. I have given a copy to each of the interpreters and to Mr. Sprecher of the Prosecution.

The first document in this Document Book C, is OA 139. This will be Exhibit 207, and is a letter of the Reich Minister of Economics, dated 30 June, '41. It deals with the Russian question, that is to say, making available of personnel for the administration in the Russian territories that might eventually become occupied. This is a contemporaneous document.

The next document is OA 221. This will be given Exhibit No. 208. This

again is a document from those times, a file note about a conference in Schkopau which was conducted with gentlemen for the Reich Agency for Economic Development, and it is dated 2 December, 1938.

I offer this document because it shows from those times that Ambros did not consider it proper that a third plant be constructed before the beginning of 1941.

The next document is OA 329. This has Exhibit No. 194, for identification, which I gave it when I offered it during the session of the Commissioner. Now I want to offer it into evidence proper. This is a certificate of the Mayor of the Community in Upper Bavaria, about the vacation that Mr. Ambros took in that community.

The next document is OA 330. This is an affidavit of Dr. Ehmann. It will become Exhibit 209. I offer this document because Ehmann confirms in this document that if Ambros had not had to construct the plant for Farben in Auschwitz, and somebody else would have constructed it, Ambros would have been needed at least for the Buna part of that plant, and that he would have been drafted for service in this particular instance, and this drafting for labor was an obligation in the Third Reich which could have been evaded only by flight.

The next document is OA 427. This will be given Exhibit No. 211. It is an appendix--

THE PRESIDENT: Dr. Hoffmann, did we get it correct; did you mean 211 or 210? Your last document was given No. 209.

DR. HOFFMANN: Yes, I beg your pardon. I meant 210.

THE PRESIDENT: Thank you.

DR. HOFFMANN: This document, OA 427, is only a supplement to the document OA 426, which has already been offered, and this is the supplement mentioned in the other document.

The next OA document, which is NO. 616, will be given Exhibit number 211. This is a contemporaneous document, a file note about a conference of the 20th of March, 1936. It deals with a chemical process about the fermentation of glycerine.

The next document is OA 617, which will be given Exhibit No. 212. This again is a document from those times, a report on the result of the Ludwigshafen works. This report was made during the conference between the Wasag and Farben on the 23rd of May, 1939.

MR. SPRECHER: Mr. President, both Dr. Hoffmann and I are still confused. I think there is a little confusion in these numbers.

DR. HOFFMANN: No, Mr. President. I have now come to Document NO OA 617, and that was Exhibit 212.

THE PRESIDENT: Very well. We so have it.

DR. HOFFMANN: The next document that I am going to offer will be OA 723. This will become Exhibit 213. This is an affidavit of Dr. Palm. He described the large scale experiments conducted with Tabun, and he says that Tabun was prepared for a large scale production in the laboratory only after the war.

The next document is OA 724. This will be given Exhibit No. 214, an affidavit of the same man, Dr. Palm, and again deals with the production of Tabun.

OA Document 725 will become Exhibit 215. This is an affidavit of

Oberregierungsrat Karl Reinknecht, in the Army Ordnance Office, who makes statements about the employment of the inmates and the responsibility for their employment in the Dyhernfurt Plant.

The next document, OA 726 will become Exhibit 216. This is an affidavit of a certified engineer, Anton Schmal, a former Prokurist of the Luranil Enterprise, who again makes statements about the employment and responsibility for the employment of the inmates.

OA 727 will become Exhibit 217. This is an affidavit of an Oberingenieur Bilthinger, who also expresses his opinion about the employment of inmates in his capacity as Prokurist of Luranil.

OA 822 will become Exhibit 218. These are comparisons in the turnover figures of the Francolor plant for the years 1938 and 1942. The last document in this book C is OA No. 823. This will become Exhibit 219, an excerpt from the program of the meeting of the Technical Commission Francolor in Ludwigshafen of the 18th of March, 1942, and is again a contemporaneous document.

Now, Mr. President, Your Honors, I have two more documents which are not contained in my document book but which the defendant Ambros found on Saturday when he looked through the documents made available by the prosecution. Your Honors, a large part of my evidence has been spent on trying to determine the person who gave the mission for the construction of the Buna plant in Auschwitz. The first document that I offer in that respect is a letter of the OKW, dated February 1941. It is NI 11943 and my exhibit number for this document will be 220. I quote: "Dear Dr. Ambros: Forgive me if I haven't answered your letter of the 26th of January until this time. In the meantime, repeated discussions have taken place with the Reichsminister and with the Generalfeldmarshall Keitel about the rubber and Buna problems and they have influenced the decision on behalf of Buna IV. In the meantime, the decision has been made, the plant is being built in Auschwitz in Upper Silesia. If you desire any further conferences about the personnel question, I shall be available to you on some day next week." And it is signed by the responsible official of the OKW.

The last document I am now offering for Ambros, which again was found only on Saturday, is NI 11940. My exhibit number will be 221. This is a letter of the OKH, Commander of the Home Army, the Supreme Commander of the Wehrmacht in the German Reich territory, dated 17 February 1942. It is described to Dr. Ambros in Ludwigshafen and, in my opinion, it solves the question of labor employment in the same sense in which I have tried to present it during my evidence, again and again. This letter to Ambros says: "Subject: Requirement of workers for the building project

Montanwerk Auschwitz. In the above mentioned matter we are informing you that on the 17th of February 1942 the Plenipotentiary for Special Questions of Chemical Production and the OKH made an agreement according to which the procurement of those workers for the Farben plants (fuel and Buna) as well as for the Montan plant, will be taken over by the Gebechem and therefore both plants will be treated as a whole in regard to the employment of workers."

Both of those documents I shall have translated and hand them to Your Honors la ter.

MR. SPRECHER: We can indicate immediately that we have no objection to these last two documents, for what that's worth.

THE PRESIDENT: You're not ready to commit yourself with reference to the others offered this morning? Have you been over them to know what you wish.....

MR. SPRECHER: Only in the German, Mr. President, and my German isn't that sufficient.

THE PRESIDENT: Very well. Then the record may now show that Ambros Exhibits 207, 208, 194 and 209 to 221, inclusive, are now offered and received in evidence, subject to the objections of the prosecution, and I take it, Dr. Hoffmann, that closes your evidence on behalf of the defendant Ambros?

DR. HOFFMANN: Very well, Mr. President, with the exception of the one witness who is to appear tomorrow at 1:30.

THE PRESIDENT: Yes, we meant with that exception.

MR. SPRECHER: Mr. President, something has come up in connection

with the Commission to which I would like to call your attention because it is a pressing problem for us in these last seven days, and while I'm at that, I'd like to make another statement I have promised you. On Friday, the prosecution called attention to the fact that the defense had introduced several hundred affidavits within the last two weeks which we had not as yet had a chance to read and analyze. We said that today, with the permission of the Tribunal, we would make a statement on our position with respect to the cross examination of these affiants. The Tribunal said it would be glad to hear this statement but made it unequivocally clear, that under all circumstances, the evidence in this case would close on 12 May, including the cross examination of defense affiants before the Commissioner. Under the circumstances, the only course open to the prosecution is to examine as many witnesses as possible before the Commissioner during the remaining three days for the taking of evidence. It appears that we shall not even have time to examine all the affiants who were requested before last week. Hence, it would be a futile act for us to tell you what our program would be if we had an opportunity to carry it out. What is important, Mr. President, is that right now there are affiants whom we have called to appear in Nurnberg but that, for some reason or other, they were not before the Commissioner and the Commission has had to go in recess. Now, in view of the fact that we have only these last few hours to cross examine a very few of these hundreds upon hundreds of defense affiants, we do think that is a somewhat serious situation and we know from Lieutenant Pace that there are a number of these affiants in Nurnberg or, in any event,

10 May - M-LU-9-4-Leonard (Int. Katz)
Court VI - Case VI

that they have come to Nurnberg unless they have left on their own volition or upon somebody else's stimulation.

THE PRESIDENT: Gentlemen, that is a regrettable situation, of course. For whatever time yet remains and for whatever witnesses are or can be made available, the Tribunal feels that the prosecution is entitled to conduct its cross examination up until the close - the time when the evidence in this case is to be closed, and the Tribunal will expect counsel for defendants who are responsible for these witnesses to see that they are present before the Commissioner at the time designated so that there may be no unnecessary interruption of the rights of the prosecution to cross examine these witnesses.

Gentlemen, I think we are ready now for another volunteer from counsel for defense to close up the evidence.

Just a moment. We'll hear Dr. Dix.

DR. RUDOLF DIX: In regard to the latter statements of Your Honors I know from information of my colleagues that those affiants whom the prosecution wants to cross examine have been waiting here in Nurnberg for quite some time to be examined. In other words, I assume with certainty that none of them have left and those who have been called are ready. At any rate, the defense did everything within its power to procure these affiants for cross examination for the prosecution.

DR. SEIDL: (Defense Counsel for Defendant Duerrfeld): About the question of the examination of affiants I want to say that a difficulty has arisen this morning because one witness, Dr. Savelsberg apparently was sick. He didn't appear, and on last Saturday, when the Commissions

10 May - M-LU-9-5-Leonard (Int. Katz)
Court VI - Case VI

were in session also, no new session was given notice of so that the two defendants, Ambros and Duerrfeld, who wanted to participate, weren't present either. Therefore, I ask you to rule that the defendant Duerrfeld be excused immediately in order to attend the Commissioner's hearing which is to start right away.

THE PRESIDENT: That, of course, is proper and the defendant Duerrfeld is excused.

DR. SEIDL: Mr. President, with Your Honor's permission, I want to offer three more documents that have not yet been translated but that are to be translated, with proper permission of the Tribunal. These are three short.....

THE PRESIDENT: Let me ask you, Dr. Seidl, have all the documents that have been processed and distributed on behalf of the defendant Duerrfeld, been already offered?

DR. SEIDL: All documents have been offered, yes.

THE PRESIDENT: Then you have three additional documents now that have not been processed?

DR. SEIDL: Yes.

THE PRESIDENT: Give us the designation of the document and your proposed exhibit numbers and we'll take care of that for you now.

DR. SEIDL: The first Document is Duerrfeld #1523. I want to offer it to Your Honors as Exhibit 467. The second is Duerrfeld Document 1524 which is to become Exhibit 468. The third and last document is Duerrfeld....No, that's an NI document, Mr. President. It is one of those documents which were found in the files of the Prosecution. It is NI 11019

and that document is to become Exhibit 469.

THE PRESIDENT: Does that conclude your documents now, Dr. Seidl, on behalf of the defendant Duerrfeld?

DR. SEIDL: Yes, that concludes the presentation of documents for Dr. Duerrfeld.

THE PRESIDENT: Then the Tribunal receives, subject to objection of the prosecution, Duerrfeld Exhibits 467, 468, 469 and closes the evidence on behalf of the defendant Duerrfeld.

DR. SCHUBERT: (Defense counsel for defendant Buergin): Mr. President, a short while ago I gave my Document Book 8 to the Translation Department. I don't know if you have it before you. I myself have not yet received the English text.

THE PRESIDENT: Just a moment, Doctor, we'll see. No, we do not but you may proceed if you are ready to identify and offer your documents.

DR. SCHUBERT: Then I shall offer the first document, Document 100 is my Exhibit 94. The second document, #101, will become Exhibit 95. Document 102 is Exhibit 96, I had already permitted myself to make a reference to this document when presenting my Book 7. This affidavit was already contained in Book 7 in its text, but it has now been reoffered in the proper form in this book. This is Exhibit 96. My Document 103 will become Exhibit 97. The next document, 86, will become Exhibit 98, and the last document in that book, Document 104, an affidavit of Lang, I shall not offer because that affidavit refers to some rebuttal documents from Book 92 which have been rejected by Your Honors' decision. I have one last document book, #9, containing only two documents that were approved during the last few days for translation and for presentation. One of them is Document 105. This is going to be Exhibit #99. For the prosecution, I want to state that this is an affidavit of the affiant and witness Milch who was here on the witness stand during my case, and the prosecution offered Exhibit 2251 in their rebuttal book 94 which is an affidavit of Wolffsohn to refute his testimony. Milch is in the prison here and therefore it is quite possible to have him called for cross examination, if the prosecution intends to do so, by tomorrow. This

is my Document 105 and will become Exhibit 99. Finally, I offer my Document 106 as Exhibit 100 and, at least in figures, my document presentation has been roundly concluded in that manner.

Mr. President, I intend to call the defendant Dr. Buergin to the witness stand about two statements contained in Document Book 92 and 94 Rebuttal Document Books of the prosecution, and for this purpose I ask Your Honor's permission. That would then completely conclude my case.

THE PRESIDENT: Are you ready to do that now?

DR. SCHUBERT: Yes.

THE PRESIDENT: Then the defendant Buergin may take the witness stand.

In the meanwhile, the Tribunal will state for the record that it has received in evidence, subject to objections of the prosecution, Buergin Exhibits 94, 95, 96, 97, 98, 99 and 100. From 94 to 100 inclusive, excepting Document 104 which will be omitted.

Now, perhaps, so that there may be no further confusion between us, we should ask the prosecution if it has closed its rebuttal with respect to the defendant Buergin and any other defendants for whom you are ready to speak now before Dr. Buergin is questioned further?

MR. SPRECHER: Mr. President, we understood that at 1:30 this afternoon we were to make our last showing.

THE PRESIDENT: I am asking you just as to him now.

MR. SPRECHER: And as I recall it there is one document which contains a number of excerpts from Bitterfeld documents which, I believe, would affect the defendant Buergin.

THE PRESIDENT: I wonder, Mr. Prosecutor, would you be able to give

Dr. Schubert a copy of that in the meantime and let Dr. Buergin step aside until this afternoon so that he and his counsel would know what it is and we will not have to call him back again? Would not that be more orderly and do you have any objections to that, gentlemen?

DR. SCHUBERT: No, I think that would be the only solution.

THE PRESIDENT: Well, then Dr. Buergin, you may return to your seat and we will call you this afternoon after you and your counsel have had an opportunity to familiarize yourself with the document to be offered by the prosecution.

DR. BACHEM: (Defense Counsel for defendant Ilgner): Mr. President, I should like to offer the last document books for Dr. Ilgner that we reserved the right to offer when we presented previous document books. It's the supplement book #11 which I believe is before your Honors in the English. Document Book 11 has been so arranged by us that it has been remarked in the case of each document or group of documents for what document they are meant to serve as a supplementation to any former document books.

The last exhibit was 171. I now offer Document 171 as Exhibit 172. Ilgner Document 172 will become Exhibit 173. Document 173 will become Exhibit 174. Document 174 will become Exhibit 175. Document 175 will become Exhibit 176. Document 176 will be Exhibit 177. Document 177 will become Exhibit 178. Document 255 will become Exhibit 179. Document 178 will become Exhibit 180. Document 179 will become Exhibit 181. Document 180 will become Exhibit 182. Document 181 will

become Exhibit 183. Document 182 will become Exhibit 184. Document 183 will become Exhibit 185. Document 256 will become Exhibit 186. In respect to this document, an affidavit of Mr. Baessler, I want to point out that we included this affidavit on the basis of Judge Morris' question to Dr. Ilgner in the witness stand to the effect "What Vorstand members of Farben were still alive at the time the indictment was lodged and who were not included in the indictment?" I offer Document 184 as Exhibit 187. Document 185 becomes Exhibit 188. Document 186 becomes Exhibit 189. Document 187 becomes Exhibit 190. Document 188 becomes Exhibit 191. Document 189 becomes Exhibit 192. Document 190 becomes Exhibit 193. Document 191 becomes Exhibit 194 and Document 192 becomes Exhibit 195. This concludes the supplementary document book. I also have to offer those documents about the Norwegian problem under Count II of the indictment. That is, Ilgner Document Books 12A and 12B.

MR. SPRECHER: Mr. President, on these document we'd like to make one statement in advance and probably save some trouble with respect to more particular objections as we go along. In the Document Books 12A and 12B and supplement thereto, Dr. Nath submitted a total of sixty-five documents. They include a number of persons who are employed by or who represented Farben in negotiations concerning Norsk-Hydro, including a further affidavit of the defendant Ilgner, who has already been on the stand. By testimony previously given and by this evidence, we felt that new evidence in the strictest sense of the word was given in connection with the attitude of the French in connection with this negotiation. Now, for that reason, we asked you to receive in evidence

Fearnley's affidavit, Prosecution Exhibit 2171, which Your Honors rejected. Now, we are faced with the situation where there is still evidence much of the same type, which comes from entirely the affiants on the German side of these negotiations and I mean numbers upon numbers of such affidavits and, under the circumstances, we think that it would be much preferable from the point of view of getting at the heart of this matter if this matter were pointed out, and we also think that the statement made in the defense books, that the defendants could not get material from some of the Frenchmen involved, should be clarified. There are a number of these affidavits which contain hearsay upon hearsay and we have been informed that M. Wibratte has indicated that he, who was one of the most important French officials involved, subscribes entirely to the statements made in the Fearnley affidavit. Now, these two gentlemen are the two principal Frenchmen concerned and these documents contain considerable tremendous amounts of hearsay concerning what these two gentlemen have said.

THE PRESIDENT: Well, the Tribunal has received so much hearsay in this case that we think we know how to appraise hearsay. We will take that into consideration in weighing the evidence, it is sufficient to say that the defendant Ilgner has not, up to this time, rested his case. There is no way we know to impose any restrictions on his right to present competent testimony. If the Tribunal has rejected some document upon the theory that it was not proper rebuttal or for any other like reason at the time it was offered, and if by reason of this evidence or any other evidence subsequently received the prosecution thinks that it now has proper rebuttal or that the document offered should be reconsidered from the standpoint of its admissibility, then you may reoffer it, Mr. Prosecutor. Go ahead and mark your documents, counsel.

DR. BACHEM: In Document Book 12a I offer Document 193 as Exhibit 196; Document 194, Exhibit 197; Document 195, Exhibit 198; Document 196, Exhibit 199; Document 197, Exhibit 200; Document 198, Exhibit 201; Document 199, Exhibit 202; Document 200, Exhibit 203; Document 254, Exhibit 204; Document 201, Exhibit 205; Document 202, Exhibit 206; Document 203, Exhibit 207; Document 204, Exhibit 208; Document 205, Exhibit 209; Document 252, Exhibit 210; Document 253, Exhibit 211; Document 206, Exhibit 212; Document 207, Exhibit 213; Document 208, Exhibit 214; Document 209, Exhibit 215; Document 210, Exhibit 216; Document 211, Exhibit 217; Document 212, Exhibit 218; Document 213, Exhibit 219; Document 214, Exhibit 220;

Document 215, Exhibit 221; Document 216, Exhibit 22; Document 217, Exhibit 223; Document 218, Exhibit 224; Document 219, Exhibit 225; Document 220, Exhibit 226; Document 221, Exhibit 227; Document 222, Exhibit 228; Document 223, Exhibit 229; Document 224, Exhibit 230; Document 225, Exhibit 231; Document 226, Exhibit 232; Document 227, Exhibit 233; Document 228, Exhibit 234; Document 229, Exhibit 235; Document 230, Exhibit 236; Document 231, Exhibit 237; Document 232, Exhibit 238; Document 233, Exhibit 240; Document 235, Exhibit 241; Document 236, Exhibit 242; Document 238, Exhibit 243; Document 239, Exhibit 244; Document 240, Exhibit 245.

This concludes this first book about Norway. I don't know if the Tribunal already has Document Book 12b before it.

THE PRESIDENT: Yes, we have it.

DR. BACHEM: First I want to say this in regard to 12b. For simplification and for Your Honors' facilities I have included excerpts from documents that have already been offered in Book A. These are no new documents and I won't give them any new exhibit numbers since we have no other copy for the Secretary General. They are only excerpts from those documents produced in Book 12a.

THE PRESIDENT: Does that apply, counsel, to all of the documents in your Book 12?

DR. BACHEM: No, Mr. President, the first document, 196, is one of them. It's already before Your Honors as Exhibit

199. The next document, 220, is also before Your Honors as Exhibit 226. Document 242 will become Exhibit 246; 243, 247; 244, 248; 234, 259; 245, 250; 246, 251; 247, 252; 248, 253; 249; 254; 250, 255.

The next document listed in the index, Number 193, is again before Your Honors as Exhibit 196. 194 again is already offered as Exhibit 197, and 196 has been offered as Exhibit 199. Document 251 will become Exhibit 256. Oster Document 1948, Exhibit 257. The following document, Oster 49 I shall not offer. The next is Ilgner Document 31 which has been offered as Identification Number 32. May I point out in that connection that this is a certificate by Mr. Eriksen, Oslo, dated 12 November 1946, which was offered only for identification during the main case of Dr. Ilgner because it was lacking the proper form. After the presentation of evidence we tried to get the certificate from Mr. Eriksen, and we were informed at the time that Mr. Eriksen was not available since he was on his way to the United States. Then, by accident, we learned where Mr. Eriksen was staying in the United States, and we got in touch with him again by cable. Then we were informed that Mr. Eriksen was already on his way back to Sweden -- to Oslo -- and again we couldn't get in touch with him. Therefore I am now asking you whether it isn't possible, in view of those circumstances, to offer this document into evidence proper as Exhibit Number 32.

THE PRESIDENT: It will be tentatively received in evidence subject, however, to the objection of the prosecution, if any, and if there is such objection we will then pass on it. I may say that you make a pretty good showing of diligence, counsel, at least. You may continue.

DR. BACHEM: I then offer my next document, Number 257, Exhibit 258. The last document in this book, Number 258, will become Exhibit 259.

Mr. President, there is still before Your Honors a supplement to Document Books 12a and 12b. This is one document, an affidavit of the bank director Wallenberg, from Stockholm. This is Ilgnor Document Number 259. I should like to offer it as Ilgnor Exhibit 260. This concludes presentation of all those documents that have been mimeographed and translated up to now. Mr. President, I have a few more documents that I would like to offer to the Tribunal, although they are not yet translated. Your Honors will recall what difficulties we encountered to get documents from Norway. With the kind assistance of Mr. President we wrote to the Norsk-Hydro Enterprise and asked them to make available to us excerpts from their files. When we received no reply, we then, on 29 April 1948, sent a telegram to the Norsk-Hydro in Oslo and asked them to give us certain information about some questions from their files in their office. We asked that this information be sent by telegraph to Major Schaefer, and that it should

be subsequently sent in a sworn affidavit. We now have the telegraphic reply that Major Schaefer received, but we do not have the written sworn affidavit of the firm of Norsk-Hydro. Since the contents of the telegram, however, are of extreme importance for the question under discussion here, I should like to offer this exchange of telegrams to Your Honors, and I ask you to accept it as an exception in view of the circumstances I have just described. I offer these telegrams between the defense and the firm of Norsk-Hydro, as Ilgner Document 262 and Ilgner Exhibit 261.

THE PRESIDENT: Let's verify, counsel, your designation of this document. You mean it bears Document Number 262 and Exhibit Number 261, is that correct?

DR. BACHEL: Yes, Your Honors. Then Your Honors, we have one more document which unfortunately is not in the prescribed form. It is a letter of the "Deutsche Verrechnungskasse" to Dr. Nath. The "Deutsche Verrechnungskasse" stated in reply to our inquiry they would only swear out an affidavit if an official allied agency demanded that they make such an affidavit. You, Mr. President, were kind enough to give us a letter that we sent to the "Deutsche Verrechnungskasse", but unfortunately we have not yet received a reply, although that letter was sent out by air mail through Major Schaefer to Berlin. A telegraphic inquiry that we sent at the end of last week was again not answered. In view of those circumstances, I ask your Honors, therefore, to accept the letter of the Verrechnungskasse to Dr. Nath which is not sworn to, into evidence. It carries Ilgner Document Number 264 and will become Ilgner Exhibit 262.

I have three more documents, Your Honors, that we found in Document Room 316. The first is a letter of Farben, Berlin, dated 6 May 1941 to the Norsk-Hydro in Oslo, with a letter of 26 April 1941 from the gentlemen Moreau and Vibratte of the Banque de Paris of the Netherlands, to Mr. Ilgner. In this letter the French members of the Styre of

Norsk-Hydro give their approval to the participation of Norsk-Hydro in the Nordisk Lettmetall. This document, which bears Prosecution Document Number NI 13194 is to receive Ilgner Document Number 260 and Ilgner Exhibit Number 263. We also have a letter of Mr. Eriksen, the director general of the Norsk-Hydro in Oslo, to Dr. Kesten of the Berlin office NW-7 of 3 April 1941. This letter is Prosecution's Document Number NI 13207. It will receive Ilgner Document Number 261 and Ilgner Exhibit Number 264. I am just being told that when I offered the previous document -- that is Ilgner Exhibit 263 -- it was translated that it was a letter of the Banque de Paris to Mr. Ilgner, but it was a letter of the Banque de Paris to Mr. Wallenberg -- not to Mr. Ilgner.

The last document which again comes from the document room is a letter of Dr. Aubert in Oslo, to Geheimrat Schnitz, dated 12 May 1941. This is Prosecution Document 13204. It is to become Ilgner Document 263 and Ilgner Exhibit Number 265. Your Honors, this concludes the presentation of documents for Dr. Ilgner completely.

THE PRESIDENT: Thank you, counsel. Now, the Tribunal now receives in evidence in addition to the documents which have heretofore been processed and distributed, Ilgner Exhibit 261 to 265, inclusive, subject to the objections of the prosecution and closes the evidence as to the defendant Ilgner.

Dr. Hoffmann.

DR. HOFFMANN: (For von der Heyde): Mr. President, for the defendant von der Heyde I am going to offer one document book. The first document in this book is von der Heyde Number 3.

THE PRESIDENT: Dr. Hoffmann, was it your understanding that book had been distributed to us?

DR. HOFFMANN: No, I don't believe it has been distributed as yet.

THE PRESIDENT: What designation will the book bear?

DR. HOFFMANN: It's only going to be called Document Book von der Heyde because there is only one. It contains altogether six documents. The first document is von der Heyde Number 3 and it will be assigned Exhibit Number 3. In that connection I remark that I did offer two documents during von der Heyde's examination -- a newspaper and a calendar but both of them only for identification. Von der Heyde Document Number 3, which I have now offered is Exhibit Number 3, an affidavit of a certain Dr. Rudolf Fahr. It deals with the membership of Dr. von der Heyde in the Reiter-SS. I gave this affidavit to Mr. Sprecher of the prosecution at the time and stated to him that Mr. Fahr, the affiant, was present here, and ready to undergo cross-examination. Mr. Sprecher looked through the document, talked it over with his experts, and told me that he did not desire to cross-examine that affiant.

May I quote briefly from this document: "Dr. Fahr --

THE PRESIDENT: You're transgressing the rule a bit by quoting from these documents, Dr. Hoffmann. We don't want to be harsh with you but we indicate that we would permit you to give them numbers and introduce them in evidence subject to objection. If you think it's highly important and you have been taken by surprise -- it's almost lunchtime -- if you can adjust yourself to the new rule over the lunch hour we will permit you to tell us what this document is.

DR. HOFFMANN: Mr. President, I just ascertained from my colleague what you said because you were speaking in a low voice and I didn't understand you so very well. But I would have only made a brief reference to this document because Mr. Sprecher waived cross-examination and because I call this Document quite a hit; it's very important for my case.

THE PRESIDENT: Go ahead and say what you have to say, Doctor.

DR. HOFFMANN: This Dr. Fahr, as I said, was in close connection with my client in the years 1936 and 1939. He was a member of the cavalry of the SS and what he also says is disadvantageous to von der Heyde and I quote: "I know that Mr. von der Heyde gave to some agency of the SD economic information." But favorable for von der Heyde he says for the years 1936 and 1939: "I know that Mr. von der Heyde, just as I, was a member of the SS Cavalry, the

10 May 1947-M-MSD-12-5-Mills (Katz)
Court VI, Case VI

Reiter SS," and he also gives a reason in this affidavit for the time 1936 to 1939. "I remember with certainty that Mr. von der Heyde was only wearing the uniform of the SS Cavalry with the insignia of the cross flags on his lower arm. If he had been a regular member of the SD then instead of the crossed flags he would have worn the insignia of the SD-- the insignia called SD.."

DR. HOFFMANN (Counsel for defendant von der Heyde): Mr. President, to the other documents I merely want to assign numbers. That is von der Heyde Number 4. This will become Exhibit 4. This is an affidavit of the former personnel chief in the operational main office of the SD, Hans Juettnor.

On the witness stand in reply to the Prosecution's question Mr. von der Heyde said in answer to the question, "Who promoted him," that as far as he remembered those promotions were given him by the personnel office in the SS Main Office. Juettnor says that such a promotion actually would go by way of that agency if anybody in the SS Cavalry was promoted.

Then the next document is von der Heyde Document No. 5 which will become von der Heyde Exhibit 5. This is an affidavit of the former chief of the Race and Settlement Main Office about the so-called marriage approval. This man states that it was actually true that if anybody was a member of the SS Cavalry one was not permitted to marry without getting Himmler's permission and, even more than that, the officials of the Reich Administration Office were not permitted to conclude a marriage without previous approval of Himmler.

The last document is von der Heyde Document No. 6, Exhibit No. 6. This is an excerpt of the judgment in the case of the United States of America against Oswald Pohl about Rudolf Schoide. I offer it in support of my motion of which your Honors have taken judicial notice and about which your Honors have decided that they would rule on that motion together with the judgment.

Mr. President, this concludes the presentation of documents for von der Heyde but before I conclude the case for von der Heyde I should like to have the defendant von der Heyde called to the witness stand for approximately five minutes in regard to the two documents: NI-6712-C and NI-6712-D, Exhibits 2234, and 2235.

THE PRESIDENT: Before you do that, let's ascertain from Mr. Sprecher if we can whether or not he has any further rebuttal evidence applicable to the defendant von der Heyde ~~we~~ we don't have to have him called twice to the stand.

MR. SPRECHER: I can think of no documents that especially involves him, Mr. President.

THE PRESIDENT: Very well. Can you conclude that by twelve-fifteen?

DR. HOFFMANN: Certainly.

THE PRESIDENT: Defendant von der Heyde will take the witness stand. In the meanwhile the Tribunal will say it has received in evidence von der Heyde Documents 3, 4, 5 and 6 which have not been processed and that they are, however, subject to objection by the Prosecution.

(Erich von der Heyde, defendant, took the stand and testified as follows:)

ERICH von der HEYDE

REDIRECT EXAMINATION

BY DR. HOFFMANN:

Q.- Mr, von der Heyde, you have already been on the witness stand and have been sworn in.

A.- Yes.

DR. HOFFMANN: May I ask your Honors whether I can now examine the witness with reference to the previously given oath?

THE PRESIDENT: Yes, certainly; it is not necessary under the practice that we indulge to swear a witness who is recalled to the stand. He is sworn for all purposes.

Q.- Mr. von der Heyde, do you have the two documents contained in rebuttal book 94 as Exhibit 2234 and 2235?

A.- Yes.

Q.- Please, Mr. von der Heyde, indicate very briefly how these documents integrate themselves as far as time is concerned into the cross examination document presented by the Prosecution — no, no, into the document submitted in a document book which also deals with this question of marriage approval.

A.- Document 1598, Exhibit 1598, from book 91 and the two rebuttal documents 2234 and 2235 from book 94 all deal with the same event and they are part of the same correspondence. Document 2234 preceded Document 1598 which was presented in the Prosecution's case in chief. Document and Exhibit 2235 was the final letter in that correspondence.

Q.- Mr. von der Heyde, what is concerned in the case of all of these documents?

A.- The procurement of approval for marriage in 1939, the approval by the SS.

Q.- Why did you have to obtain such approval? Explain this event very briefly.

A.- When in the spring of 1939 I inquired with the competent registration authorities what documents were necessary in order to obtain the marriage certificate the official in the Regional Administration Office asked me whether I was a reserve officer and he also asked me whether I was a member of any organization of the Party. When I answered the first question in the affirmative and when I said in answer to the second question that I was a member of the SS, he pointed out to me that for marriage, it was indispensable to receive from both agencies -- that is, the Wehrmacht on the one hand because I was an officer of the Reserve and on the other hand from the SS permission to marry.

Q.- Mr. von der Heyde, do you still remember whether the officials in the Regional Administration Office, after he had given you this information, made a note to the effect that you had to comply with both of these requirements?

A.- Yes, the official in the Regional Administration Office made a note in the documents about this requirement.

Q.- If you had then not procured this permission you would never have been permitted to marry. Is that right?

A.- Yes, that is right.

Q.- Mr. von der Heyde, for the expedition of this interrogation, I want to state first that Exhibit 6712 and Exhibit 2234 show that you requested printed forms on the 6th of May 1939, Is that right?

A.- Yes, that is correct.

Q.- That is printed form applying for such a permission to marry?

A.- Yes, that is right.

Q.- You filed these printed forms and that is the document which is contained in the main book against you. Is that right?

A.- Yes, upon my request on the 6th of May 1939 I was sent the questionnaire which has been presented as Exhibit 1598. I filled it in and I handed it in at the time.

Q.- Mr. von der Heyde, you wanted to marry. Is it correct that I assume that you were interested in marrying very quickly?

A.- Of course, I had the desire to get through the formalities as quickly as possible.

Q.- To the best of your recollection, now, if you applied for the printed forms on the 6th of May when did you then make the formal motion, do you think?

A.- I maintain my statement made sometime ago that, to the best of my recollection, I filled in this questionnaire around the middle of 1939.

Q.- The last Document 6712, Exhibit 2235, was the result of your application that you made in the middle of 1939. Is that correct?

A.- Yes, Exhibit 2235 is the permission which was granted in October.

Q.- Very briefly, in conclusion, Mr. von der Heyde, what can you state that is noticable from Document 2235 which you have before you? Have you any remarks to make in that connection?

A.- May I also include in my remarks Document 2234?

Q.- Please do so?

A.- In Exhibit 2234 it seems noticable to me that in the second line

in answer to the question about the SS unit that is asked for in this printed form, I indicated that the Main office was the agency for which I was active at the time but to which I did not belong and that I expressly again added that I was an honorary collaborator although there was no provision in the printed form for such information. There was no column in which this could be added in the printed form. I, under paragraph 2 in this questionnaire, was asked for my superiors. I indicated at the time Standartenfuhrer Six, because, I pointed out, I made the acquaintance of Standartenfuhrer Six only here in Nurnberg where I saw him for the first time.

Q.- Mr. von der Heyde, since I originally stated that our examination would be concluded by a quarter past twelve and since I know from previous conversation with you that a number of formalities are contained in those two documents which speak against you, which contradict your membership, I want to ask you in conclusion; do you still maintain that you were never a member of the SD?

A.- Yes; and how loose and vague this connection was can be seen from Exhibit 2235, on the one hand, because the receipt of the 18th of October was signed by me as Untersturmfuhrer although, according to the files, I had become Obersturmfuhrer on the 10th of October — the end of September. That shows that on the 18th of October I had no knowledge of this promotion yet; and in conclusion I want to point out that this approval was not sent to the SD Main Office — that is on page 4 of the original of the document —

but it was sent to my private office in Berlin, Charlottenburg.

DR. HOFFMANN: Mr. President, I ask your forgiveness for this delay.

THE PRESIDENT: Very well.

DR. HOFFMANN: This concludes, finally, Mr. von der Heyde's case.

RE-CROSS EXAMINATION

BY MR. SPRECHER:

Q.- Witness, in any of the correspondence which you have just gone through with your defense -- he has mentioned the document number -- did you at any point observe any reference to any membership by you in the Reiter-SS, either in your own handwriting, in the handwriting, or in the handwriting of any of the persons in between?

A.- I merely found the reference that I was a member of the General SS, the Allgemeine-SS.

MR. SPRECHER: I have no further questions.

THE PRESIDENT: Gentlemen, we are about to recess. May I say that because we do not have the witnesses about which I spoke this morning we should like to go ahead this afternoon with calling individual defendants and having their documents presented including those which have not yet been processed and if there is any necessity for calling them for any omitted questions that that follow; and I wish that, Mr. Prosecutor, you would be able to advise us with reference to your plans on rebuttal documents at the first of this afternoon's session so we will know whether it

10 May-M-FL-13-8-Primoau (Int. Katz)
Court No. VI, Case VI

will be necessary to postpone the presentation on behalf of any of the defendants.

The Tribunal will not recess until one-thirty.

(The Tribunal adjourned until 1330 hours 10 May 1948.)

1948
10 May-A-MW-15-1-Primeau (Int.von Schon)
COURT VI, CASE VI

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours 10 May 1948)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Before you start, Mr. Sprecher, in the documents that were placed on the bench this morning there was Document NI-15135, interrogation of Helmut Schneider. Did you intend to offer that in evidence or did you offer it?

MR. SPRECHER: Mr. President, that had been marked for identification subject to offering when it was processed. At the time the witness Helmut Schneider was on the witness stand I merely wanted you to have a copy.

THE PRESIDENT: Do you remember the exhibit number?

MR. SPRECHER: I can give it to you in just a second.

THE PRESIDENT: I wish you would.

MR. SPRECHER: Is that NI-15135?

THE PRESIDENT: That is correct.

MR. SPRECHER: That is Prosecution Exhibit 2131 which was used before the Tribunal on the 14th of April 1948.

Mr. President, in presenting our concluding documents, I would like first to refer to three documents of which your Honors are aware because of a stipulation between Mr. Minskoff and Dr. Pribilla. In view of the difficulties that arose with respect to our cross examining Dr. Weber, Weber, it was agreed that the prosecution might introduce three documents. Not all of these are completely processed but they will be by



the next session and I think we can offer them pursuant to your agreement before.

NI-15294 will become PE-2258 and NI-13589 will become Prosecution Exhibit 2259. That was a letter from the defense affiant Bieling to Dr. Weber; and NI-8924 will become PE-2260. This is another letter from Bieling to Dr. Weber. I beg your pardon -- NI-13589, Prosecution Exhibit 2259, is a teletype from the Berlin Branch of Bayer to Dr. Mrugowsky, no, to Dr. Doemnitz concerning an order by Mrugowsky, and I properly indicated the nature of Prosecution Exhibit 2260, NI-9824. Those three are covered by that stipulation.

Now, there are two documents which Mr. Minskoff had intended to use during cross examination of Dr. Santo, one of the Auschwitz Defense affiants, and also a document which was intended to be used during the cross examination of the chief food representative of Auschwitz who is also a defense affiant on Auschwitz. We thought we should mark those here at this time so that you would know about those documents. We also think that they would be proper rebuttal.

NI-15258 will become Prosecution Exhibit 2261. This is a letter from Faust to Santo reporting on a visit to the Auschwitz site and the date of the letter is 25 January 1941.

The next document is Prosecution Exhibit 2262; that is, NI-15299. This is a certificate by Dr. Ungar, one of our analysts, concerning hospital death records of I. G. Auschwitz. The contents of these hospital death records are found in NI-15295 and NI-14997, which are available to the defense. The certificate of Dr. Ungar merely indicates the number

of deaths from hunger, edema and so on in connection with the statements of a number of defense affiants and similar things like that with respect to the nature and cause of the deaths of people who died in I. G. Auschwitz.

The last document we wish to offer is one which is before your Honors; that is, NI-15264 which will become Prosecution Exhibit 2263. This is given over entirely to list the extracts from a number of contemporaneous documents concerning a number of Farben plants and it has to do with the issues in this case concerning the matter of slave labor which arrives out of the contention that Farben did not in any way affect the type of laborers it got at a number of plants, the claim that no child foreign labor was employed at certain of the plants, and the important question with respect to initiative taken in reporting the "unfree" workers who had fled to the Gestapo.

Now, extracts of a series of some thirteen letters on that point — and one of them is quoted. The fact that the other thirteen are on the same type of form and on the same substance is stated. All these documents, of course, which are excerpted here are available in Mr. van Street's office.

Now, there has been in Paragraph 6 of the affidavit a mistranslation by Dr. Hauptmann who makes this affidavit and, rather than try to correct that, we will just ask your Honors to strike it. If the defense wants it corrected for their purposes, that is another matter. We just ask you to strike —

THE PRESIDENT: That is literary paragraph 6, page 2 of your Exhibit

2263?

MR. SPRECHER: Yes. In view of the large number of contemporary documents covered by this concerning a number of matters we fell have been put in evidence and concerning which I certainly feel considerable new evidence has been given, we urge the acceptance of this document; and with that, Your Honors, we conclude the offer of all rebuttal material on behalf of the prosecution.

THE PRESIDENT: Very well.

DR. NATH: (Counsel for defendant Kuehne): Mr. President, with respect to the document just offered by Mr. Sprecher, NI-15264, I should like to object.

THE PRESIDENT: You mean, do you not, 15263?

DR. NATH: The Document 15264.

THE PRESIDENT: That is right; you are correct.

DR. NATH: I should like to object with respect to the work of children which Mr. Sprecher mentioned. This is page 6 of the original under number fifteen—there a figures is given about the number of children employed at Leverkusen. The date indicates that all of this was after my client left on the 31st of July 1943.

These are documents that have nothing to do with my client, therefore, because he was no longer in charge of the plant at that time. In Book 70 the Prosecution did not introduce the documents about alleged employment of children; those documents in Book 70 were not submitted to the Tribunal. I assume that that was for the same reason, because they can have nothing to do with my client, Dr. Kuehne, because he had left on the 31st of July.

MR. SPRECHER: We submit this in sheer argumentation, Mr. President. I haven't heard it yet stated in this case that Dr. Kuehne severed his connections with Farben merely because he stopped acting as Betriebs-fuehrer in Leverkusen in the latter part of 1943, and the value of these documents with respect to slave labor is a general matter and all of the testimony that has come in concerning that point is an issue.

DR. NETH (Counsel for defendant Kuehne): Mr. President, I had assumed hitherto that this fact was known to Mr. Sprecher from his own records. Dr. Kuehne was at Leverkusen only until the 31st of July. Therefore, I object, because these documents cited here cannot affect him at all and are completely irrelevant.

THE PRESIDENT: They may be relevant, Dr. Neth, for some other purpose or some other defendants even on your theory, and for that reason the Tribunal would not be warranted in striking the document out, or the part of the document out, that you refer to. However, we shall take into consideration that which appears on the face of the document in applying it to the charges contained in the indictment.

DR. SCHUBERT (Counsel for defendant Buergin): Mr. President, this

document NI-15264, Exhibit 263 for the Prosecution affects quite a number of defendants. My client, Buergin, is affected by this document under paragraph 10 and paragraph 13, as far as I can see at the moment. This document is offered as a surprise to us, although the Prosecution has had these records for some time. I should like to suggest the following procedure in dealing with it.

When the earlier document books were introduced, the Tribunal demanded objections in writing, and I believe it would be the most expedient course in this case too: If I, and perhaps my other colleagues, for whom I cannot speak now, were to hand in our objections in writing even still today so that we could have a decision tomorrow morning to what extent this document is admissible or not. For my case, for instance, this is necessary to determine whether I am going to call my client to the witness stand again; also whether I am to offer another document in addition to those which I introduced today. Since this document refers to one of the points in this document here, I ask for the right to introduce this document tomorrow.

THE PRESIDENT: Do you wish to speak on the same subject, Dr. von Metzler?

DR. VON METZLER: Yes, Mr. President, I concur with my colleague.

THE PRESIDENT: Then it would be very satisfactory to the Tribunal if counsel who are interested in objecting to this document will join in joint motion directed to its admissibility. The Tribunal would be happy to consider it in that manner.

DR. SCHUBERT: Mr. President, is it possible for us to have a ruling tomorrow so that we will be able to decide what further evidence we have to introduce?

THE PRESIDENT: That is a bit hard to say, when we don't know what is going to be in the motion, but we will do our very best to give you a ruling in the morning. That depends a good deal on what you say about it and when you say it.

DR. SCHUBERT: Then I should like to ask, Mr. President, that in the event this document is accepted, inasmuch as it affects my client, that I be allowed to introduce one more document tomorrow. I already have this document, by way of precaution.

MR. SPRECHER: Mr. President, we certainly have no objection to that. We merely want to point out that as far as surprise is concerned the real surprise in this runs in our direction because of all the affidavits that have been put in --

THE PRESIDENT: May I say, finally--and I hope this is final--that this tribunal is looking forward with great anticipation to the arguments of counsel because you have always appeared so very anxious to get started on arguments. Now, let us just postpone that until June 2d, and I am sure the arguments are going to be good because too much we have had argumentative observations here. Of course, we cannot tell whether or not there is anything in the document that would entitle you to meet it until we know what is in the document and know what you have to say about it. If it is proper in our judgment that you should have an opportunity of offering a document in answer to it, we will afford you that

privilege. Get your motion to us, if you can, just as promptly as possible and we will undertake to pass on it at the very first opportunity.

DR. SCHUBERT: Mr. President, I could offer this document today. I have it here. Of course it would be pointless if this question is decided in favor of my client.

THE PRESIDENT: We would prefer not to burden the record with any documents until the admissibility of it at least appears apparent. And if it is proper and reasonably necessary, we will give you that privilege tomorrow.

DR.VON METZLER: Mr. President, I would reserve, with Your Honors' permission, the right to call the defendant to the stand maybe tomorrow, if Your Honors should admit this document in evidence. May I assume that then I am entitled to call the defendant Gajowski to the stand although this is the final roll call?

THE PRESIDENT: If there is anything that should properly be answered in this document, we would not close the door on you, but we will make no promise until we know what is in the document and your statement of what you expect to show by Dr. Gajowski.

DR. VON METZLER: Much obliged.

THE PRESIDENT: Are ready now to cross-examine this Prosecution witness, Dr. Siemers?

DR. SIEMERS: Yes.

THE PRESIDENT: Is he here?

MR. SPRECHER: Mr. President, I thought this might take longer, and

he is busy working on the stipulation that you requested. I can have him here in three minutes.

THE PRESIDENT: Get him up here as soon as possible.

Any other counsel have about one additional document that they want to introduce at this time?

DR. SIEMERS: Mr. President, then I may take advantage of this short interval to say the following. In my presentation of evidence for the events in the year 1945 I should like to examine the witness Haeffliger briefly. Haeffliger is in the hospital at the moment, but he could come to be examined. I believe I need instructions from the Tribunal to have Mr. Haeffliger brought to the courtroom to attend the session. Dr. von Metzler has given his approval.

THE PRESIDENT: Very well. The Marshal seems to be absent for the moment, but when he comes in we will direct him to make the necessary arrangements to have the defendant Haeffliger brought to court tomorrow.

DR. SIEMERS: Thank you.

DR. FLAEDCHSNER (Counsel for defendant Buete-fisch): Mr. President, may I now offer the last documents for my client. On the third of May I handed them in for processing. I don't know whether the Court has the English translation yet or not. These documents are in Supplement Book 3 for the defendant Buete-fisch. Do you have it?

THE PRESIDENT: We have that book.

DR. FLAEDCHSNER: Then I may offer the first document, Buete-fisch 344 as Exhibit 274. I offer this in connection with Document NI-14304, Exhibit 1977, offered by the Prosecution during cross-examination.

The next two documents, Buete-fisch 350, Exhibit No. 275, and Buete-fisch 348, Exhibit 276, are offered especially in connection with the general presentation of the Prosecution in cross-examination, but specifically in connection with the attitude taken by the Prosecution during cross examination of the Defense witness Hartmann with respect to Document 228 which was an affidavit of Dr. Hartmann's.

The next document, Buete-fisch 346, will be Exhibit No. 277.

The next document, 349, will be Exhibit No. 278. It is offered in connection with Prosecution Exhibit 1983, NI-14579, offered during cross examination.

The next document, Buete-fisch 338, which will be Exhibit No. 279, please note that I am offering this in connection with Prosecution Document NI-14579, Exhibit 1983 offered during the cross-examination of the defendant Buete-fisch by the Prosecution.

The following document is Buete-fisch 325, an affidavit of Dr. Winkler.

It will be Exhibit 280. I offer it in connection with Document 1981, Document NI-14576 offered by the Prosecution in cross-examination.

The following affidavit of Blessing, Buete-fisch Document 337, is offered as Exhibit 281, to refute the Prosecution document NI-14576, Exhibit 1981.

The following document is an affidavit of Herriger, Document 354, as Exhibit 282. It refers to the Prosecution Exhibit 1981.

The next is Buete-fisch Document 347, an affidavit of Hartmann referring to a Prosecution Exhibit 1980, which the Prosecution put to the defendant Buete-fisch during cross-examination. I offer this document as Exhibit 283.

The next document is Buete-fisch 342, an affidavit of Dr. Reinhold Goldberg. It will be Exhibit 284. Please note that this exhibit is offered in connection with Prosecution Document 14497, Exhibit 1980.

The affidavit of Ulrich Happe, Buete-fisch Document 340, Exhibit 285, refers to the same Prosecution document. Again it refers to the dismantling of the Sluiskil Works.

The next document is an affidavit of Conzen, Buete-fisch document 353. I offer it as Exhibit 286. It refers to the questions put to the defendant in cross-examination under Count II.

The next document is Buete-fisch 352, and I offer it as Exhibit 287. I may ask that you note that I am offering it particularly with reference to Prosecution Document 14577, Exhibit 1982.

The next document is Buete-fisch Document 341, an affidavit of Pott,
14113

which will be Exhibit 288. This document, too, refers to the questions put to the defendant during cross-examination by the Prosecution with respect to coal.

The next document is 326, and will be Exhibit 289, an affidavit of Baron von Schroeder. I offer this document with reference to the cross examination by the Prosecution regarding the Circle of Friends.

The following document, Buete-fisch 339, Exhibit 290, refers to the same subject, and especially to Prosecution Document NI-14519, Exhibit 1975.

The next document is Buete-fisch Document 345, which I offer as Exhibit No. 292. It is a record of an interrogation of Dr. Buete-fisch by the Prosecution on the 16th of April, 1947. I am offering this with reference to Prosecution Exhibit 1976, NI-6233. It is an affidavit which the Prosecution allegedly extracted from this interrogation.

I also offer Buete-fisch Document 355 as Exhibit 293, an affidavit of Buete-fisch's commenting on this record of 16 April 1947 and the affidavit of the same day which was prepared by the Prosecution.

The last document in the index is an architectural sketch. This will not be introduced; that concludes the presentation of documents for the defendant Buete-fisch.

HELMUTH DIX (Counsel for defendant Schneider): I have two documents to introduce for the defendant Schneider.

THE PRESIDENT: May I inquire of Dr. Siemers if he is rushed for time? I am not sure, Dr. Siemers, do you wish to go to a Commissioner's hearing

this afternoon? We would be glad to take care of your matter in advance, if it is necessary..... Very well, go ahead, Dr. Dix.

DR. HELLMUTH DIX: I have two documents. Schneider Document 300, Exhibit 247, with reference to Prosecution Exhibit 1901, offered in cross-examination, and Schneider Document 301 as Exhibit 248, which certifies to the time when the photographs were taken. Then I have a supplement to Exhibit 53 which I handed in to be introduced into the old document books. I handed that in to the Defense Center. Then I should like to --

THE PRESIDENT: Permit me to interrupt you just for a moment. Was your first document 300?

DR. H. DIX: 301, Exhibit 248.

THE PRESIDENT: That about your Document 300 in the same --

DR. H. DIX: 300 is Exhibit 247.

THE PRESIDENT: Thank you.

DR. H. DIX: To avoid misunderstanding I should like to point out that there were several people named Schneider working for Farben, especially the witness Schneider from Auschwitz, just to avoid misunderstandings. I am finished.

THE PRESIDENT: Pardon me. I was hardly keeping up with you. What was the last document that you mentioned that has not been processed yet that you are offering?

DR. H. DIX: That is a supplement to Exhibit 53; that was omitted. They forgot to copy it. I have handed in the copy. That doesn't have to be offered; it is already part of the Exhibit.

THE PRESIDENT: Very well..... Dr. Boettcher?

DR. BOETTCHER (Counsel for defendant Krauch): Mr. President, I have three documents for Dr. Krauch. I will hand in the copies in the English language later. They are now being prepared.

I offer Krauch Document 156 as Exhibit 207. This is a comment on Prosecution Exhibit 2239.

Krauch Document 159 I offer as Exhibit 208, a comment on Prosecution Exhibit 1891. And, finally, Krauch Document 160, a comment on Prosecution Exhibit 2240, as Krauch Exhibit 209.

Mr. President, there is one more thing, an Ambros Exhibit No. 201 was introduced today, I should like to reserve the right during the course of the day tomorrow to introduce a comment on that from Dr. Krauch.

THE PRESIDENT: Very well.

DR. BOETTCHER: Thank you.

THE PRESIDENT: Are you ready? Have Mr. Wolffsohn called to the stand now?

DR. SIEMERS: I would like to call Mr. Wolffsohn to the stand for cross examination.

(HANS WOLFFSOHN, a witness, took the stand and testified as follows:)

THE PRESIDENT: Mr. Wolffsohn, you will please remain standing to be sworn and raise your right hand. Do you solemnly swear that the testimony you are about to give before this Tribunal will be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I swear.

THE PRESIDENT: You may be seated.

DR. SIEMERS: Mr. President, we are concerned with the affidavit of the witness, NI-15266, Exhibit 2236, in Book 94 of the Prosecution, page 26 and the following.

CROSS EXAMINATION

HANS WOLFFSOHN

BY DR. SIEMERS:

Q.- Mr. Wolffsohn, when were you born?

A.- On the 1st of September, 1894.

Q.- What is your profession?

A.- I am a journalist.

Q. How long have you been an American citizen?

A. I am not an American citizen?

Q. What citizenship do you have?

A. I am a UK resident.

Q. During the IMT trials were you in Nurnberg?

A. Yes.

Q. In what capacity?

A. I was here as a Journalist and Control Officer for Control
Division OMGUS.

Q. What is your position now?

A. I am a research analyst in the Farbon team.

Q. You are an employee of the Prosecution?

A. Yes.

Q. Mr. Wolffsohn at what school were you trained to interrogate
witnesses; what questions to put to witnesses, and how to treat witnesses;
what type of treatment is permissible or not permissible?

A. I learned something about examining witnesses where I was studying
law in Germany; then I learned something when I was in a Department of the
English Foreign Office and further I learned something when I came to
Nurnberg to the OCC, that is at the end of the IMT.

Q. Mr. Wolffsohn in your affidavit you testified about the nature
of the interrogation of Dr. von Schnitzler by Mr. Sprecher. The affidavit
has been introduced against a record of an interrogation which I introduced
as Schnitzler Document 26, Exhibit 28 in the Document Book 2. I should like

to show you this record. It is the record of the interrogation of the witness, Dr. von Schnitzler, by Mr. Drexel A. Sprecher, in Nurnberg on the 16th of February 1947.

I beg your pardon, Mr. Wolffsohn. We gave you the wrong document. The English text of the record beings on Page 13; the German translation on page 20. Were you present during this interrogation?

A. Part of the time. I was in the interrogation room at least once, if not twice.

Q. Are you listed as present on page 13 of this document?

A. No.

Q. Why were you not listed?

A. Perhaps I was only present for such a short time that the court reporter did not take any notice of me.

Q. Then you did not hear the entire conversation between Mr. Sprecher and Dr. von Schnitzler, which takes up 5 1/2 pages here?

A. No.

Q. Did you hear Mr. Sprecher say the following, page 13:

"The law of the occupation powers with respect to refusal to give true testimony, is very strict. The law against refusal to testify is very strict; the law against perjury and people who refuse to testify is very strict." Did you hear that?

A. No.

Q. Did you read this record subsequently?

A. Yes, if I remember correctly, I went over it and corrected it with Mr. von Schnitzler.

Q. What does it mean, "the law of the occupation power"; can you explain what?

MR. SPRECHER: Objection.

THE PRESIDENT: The objection is sustained.

BY MR. SIEMERS:

Q. Mr. Wolffsohn, the next question reads, and I quote: "Many punishments for perjury may be greater than those for participation in German militarization; it has been claimed that you and several other persons with whom you have recently consulted, expressed misgivings against telling the truth to the occupation authorities, and that, you did not make adequate statements or said too much".

Did you hear this testimony?

A. No.

Q. Is it true if I said that your affidavit does not refer to this interrogation of 18 February 1947?

A. Yes and no. It refers to the interrogation of 18 February, to the parts during which I was present. It doesn't, of course, refer to the parts to which I was not present. For example, the part that you have just read.

Q. Since I am interested in absolute clarity, Mr. Wolffsohn, will you please tell me what part you were present at?

A. If I remember correctly I came in the first time shortly after Mr. von Schnitzler had demonstrated how he had to wipe up the floor of some room in Preungesheim. That was the first time.

Q. Thank you. That is enough. Is it true that this document which

I have just handed to you does not mention this incident?

A. You mean this excerpt, Doctor?

MR. SPRECHER: Mr. President, what is in that excerpt that Dr. Siemers has put forward will appear from the excerpt which Dr. Siemers put forward, and also what was in the excerpt which the Prosecution put forward will appear. It does not seem to me that Dr. Siemers is questioning the witness concerning his affidavit at the present time.

THE PRESIDENT: Whatever statements are in the affidavit will show for themselves and for that reason the objection is sustained. It is asking the witness whether certain statements appear in the affidavit, that is apparent from the affidavit, and the witness could add nothing to it.

DR. SIEMERS: Mr. President, Mr. Sprecher offered the affidavit in rebuttal against the only document that I introduced, namely, the document which the witness has just now. I thought that it was of some interest to determine whether these two documents have any connection, and whether Mr. Wolffsohn knows anything about the offense which on the basis of the document I introduce.

MR. SPRECHER: Mr. President, I did not challenge Dr. Siemers' statement because we would have more arguments than if I challenged everything Dr. Siemers said which I think is not quite proper. The document, the affidavit of Mr. Wolffsohn was laid forward for quite other reasons than Dr. Siemers has stated, which I stated to Your Honor this morning, and in spite of that fact, we have heard twice this afternoon that it was laid before Your Honor for a different purpose, and that

is just not so.

THE PRESIDENT: We will not waste any time on that controversy now. Now, Dr. Siemers, the objection we sustained related to the question in which you asked the witness about whether something appeared in the affidavit. Now the point that I make is that whether it does or does not appear in the affidavit is apparent from the affidavit. This is the only limitation we put on your cross examination. Ask your next question.

BY DR. SIEMERS:

Q. Mr. Wolffsohn, you said "In the middle of February, 1947, Mr. Sprecher informed me and a number of other members of the staff that he planned to conduct a series of interrogations of Dr. von Schnitzler, etc." Can you tell me exactly when that was?

A. No, I cannot remember the exact date.

Q. You also said "between 8 February 1947 and 2 May 1947, Mr. Sprecher conducted twenty-four interrogations of Dr. von Schnitzler." Was it then after the 18th of February that Mr. Sprecher asked you to assist him?

A. No, it was before that.

Q. But it is true that on the 18th of February you were not yourself present aside from the time on when Dr. von Schnitzler was describing the incident in the prison at Preungesheim.

A. Mr. Siemers, I said —

Q. I believe that is a question which you can answer with Yes or No.

A. I said I was there once or twice, five minutes one time and perhaps five minutes the other time. That is all that I can say about it.

Q. And the first time you heard the description about what happened in the Preungeshoim Prison?

A. No, I said I was there shortly after Mr. von Schnitzlor had demonstrated that.

Q. How do you know that?

A. Because my colleague, Mr. Levy, told me that very briefly, and afterwards I went through the text with Mr. von Schnitzlor, and I saw that that was the case.

Q. You also said that you corrected the record, together with Dr. von Schnitzler; were correcting the record of the interrogation or the affidavit?

A. First of all, the record of the interrogation.

Q. Aside from this one interrogation of 18 February were you always present during the interrogations?

A. As far as I could tell this morning, of the 24 interrogations recorded my name is listed on 17, but I believe that I was present at almost all of them with the exception of one or two which dealt with labor questions.

Q. I shall put to you some excerpts from the interrogation by Mr. Sprecher, which is Schnitzler Document 224, Your Honors, for identification Exhibit No. 182. Mr. Wolffsohn, would you please look at those excerpts. The first one, as you see, is of 18 February in the afternoon 3:50 to 5:15. Were you present?

A. That is the first interrogation at which I have already said that I was there once or twice. That is 18 February 3:50 to 5:15.

Q. Please look at page 4, 19 February, 10 to 12:30; were you present; are you on the list of those present?

A. No, I am not; apparently not.

Q. What do you mean, "apparently not"?

A. There are only some excerpts here. If I could see the whole record of the interrogation I would know whether I was present, even part of the time.

Q. Do you believe that the list of those present is incorrect?

A. Of course, mistakes can be made in the list of those present.

Q. The excerpt is not so short; it is 6 pages long.

A. The whole record was longer.

Q. Can't you tell us whether you were present or not?

A. No, I can't. That is an interrogation from 10 to 12:30.

Q. Mr. Wolffsohn, may I refresh your memory. There were 24 interrogations, at the same time many discussions about corrections and drawing up affidavits. Would you not remember the first two days, the 18th and 19th of February, when you think you were always present?

A. No.

Q. I am not asking you about an interrogation in the middle of the series, but I am just talking about the first two days.

A. No, that is perhaps because there were certain problems of the interrogation conducted by Mr. Sprecher which interested me especially, that remained in my memory, more than other problems which did not interest me so much.

Q. You also say that corrections of Dr. von Schnitzler were very thorough both with reference to contents and with references to grammar. Were the interrogations in English or German?

A. English.

Q. What is Dr. von Schnitzler's knowledge of English.

A. Excellent.

Q. Mr. Wolffsohn, is it so good that he can correct grammatical mistakes.

A. Yes.

Q. Mr. Wolffsohn, my English is not excellent, but I know a gentleman whose English is excellent. Some of them are astonished at some English idioms that are not typically English. Didn't you notice that?

A. I do not know how often I talked to Mr. Von Schnitzler altogether, but I noticed one thing, that Mr. von Schnitzler spoke English with the greatest ease, and that in contrast to quite a number of gentlemen with whom I have had dealings here, he has a good vocabulary, and that he does not use typical Germanisms himself - that is he does not say things that are just translations from the German. That is why I said that Mr. von Schnitzler's English is so good.

Q. Mr. Wolffsohn, do you know that Dr. von Schnitzler during the interrogation said, "You must excuse my English, I sometimes make mistakes. I do not have practice in English, and I have forgotten a great deal."

A. Yes, Mr. Simers, I remember that. That was probably just a *facon de parler*.

Q. Is his English better than your English?

A. That is a question of conscience.

Q. Mr. Wolffsohn, in an interrogation or a talk about corrections did you say to Mr. von Schnitzler, and I quote: "Don't be so pessimistic. You will be free by the fall and then you will write a book, a best seller"?

A. I don't remember that. I hardly believe so, because the regulations given to employees of the OCC say, among other things, that one must not give any predictions of the future to the men to be interrogated, and I hardly believe that I said that to Mr. von Schnitzler. That in the

course of the conversation we talked about writing books, I do not want to deny, or that I said to him, "Why don't you write a book; that will certainly be a best seller". I don't want to deny that. It is possible.

Q. That you said to him, "You will be free soon; you will be free by the fall", you don't remember that?

A. No, Mr. Siemers, I do not remember that; I really don't, and I wouldn't have said that.

Q. On page 3 of the original of your affidavit you say, "After the interrogations had been going on for about a month with interruptions, during the second half of February or in March, 1947, Dr. von Schnitzler began to talk to me more and more informally".

A. I beg your pardon, Mr. Siemers, I have not found the quotation. What page is it? I have only the English text; may I have the German text?

Q. It is on page 3 of the original, under No. 3. The paragraph begins, "During the process of correcting affidavits,"?

A. Yes.

Q. Is this statement correct, that Schnitzler began to talk to you informally after the latter part of February?

A. I cannot give the date exactly, of course, when Mr. Von Schnitzler may have made -- we use a terminus technicus for this -- an off the record remark. I cannot tell you exactly when that was, but between Mr. von Schnitzler on the one hand, and Mr. Sprecher, and the other members of the Farben team who had to do with him, they very soon developed a very pleasant atmosphere, and it is quite possible that Mr. von Schnitzler made some

personal remarks around that time.

Q. Mr. Wolffsohn you are not answering my question. I am asking about the time. You said after the interrogations had been conducted off and on for approximately a month- is it right that they began on the 18th of February?

A. Yes.

Q. "Dr. von Schnitzler began to talk to me informally about the latter part of February." This time must be false.

A. Excuse me, Mr. Siemers, the interrogations began on the 18th of February, that is, they began in the second half of February. Therefore, I didn't answer your question the way you wanted it. You mean the first half of March.

Q. You say "One month after the beginning of the interrogations!"

A. Yes. They began on the 18th of February.

Q. And your words "approximately during the second half of February and March 1947" refer to the informal way of talking of Schnitzler with you?

A. Yes.

Q. Well, Mr. Wolffsohn, I can only say that must be wrong.

A. Why?

Q. The interrogations began on the 18th of February and if it was a month later he couldn't have began to speak informally in February but in the second half of March at the earliest or didn't you notice these inaccuracies?

A. I beg your pardon. I only have the English text here. I should like to read it to you: "After the interrogations had been conducted off and on for approximately a month during the latter part of February and March 1947". That means - I don't know how the translation reads - but it means, according to the English text that I have here, that "during the latter part of February of March" means this month. That's an explanation of this word "month".

Q. Very well, Mr. Wolffsohn, but you said before that this time was when Dr. von Schnitzler began to talk informally. You're correcting yourself now.

A. Mr. Siemers, I don't know what you want me to correct.

Q. The contradiction between what you are saying now and what you said before.

MR. SPRECHER: Mr. President, we object. I think this is a figment of Dr. Siemers' imagination and I think he is jousting with a windmill.
BY DR. SIEMERS:

Thank you, Mr. Sprecher, for your praise.

Q. Mr. Wolffsohn, you say... You talk about Cransberg for a page and a half.

A. Where is that?

Q. On page 4 of the original on to page 5 you speak about what happened at Cransberg, is that right?

A. On page 4 of the English text which I have before me there is a description of what happened on the 24th of March and there follow quotations from an interrogation.

Q. Yes, and this interrogation deals with Cransberg?

A. Yes, this interrogation deals with the events in Cransberg.

Q. Namely the Schmitz affidavit of 17 September 1945 and the moral pressure which other Farben men are supposed to have exerted on Schnitzler is that right?

A. Yes.

Q. Did you have any personal knowledge of these events - these

events in Cransberg?

MR. SPRECHER: Just a minute. Mr. President, we object to this line of questioning. We think it's an attempt to bring into the back door and to lay a foundation for some further improper submissions by Dr. Siemers.

THE PRESIDENT: Are there some references in the witness's affidavit about it? This interrogation at Cransberg?

MR. SPRECHER: No, and, Mr. President, if I may just finish. The Exhibit 1812 has been in evidence in this case for a very, very long time and all that Mr. Wolffsohn states in this affidavit, if you will look at Page 4, is that the statements which Dr. von Schnitzler made in that exhibit, which has long been in evidence, came about because Dr. von Schnitzler had told Mr. Wolffsohn in the morning when correcting interrogations about these matters and that he wanted to have an interrogation with me. Now, that is the extent to which Mr. Wolffsohn raises this point here and Mr. Wolffsohn has not attempted in this affidavit to go into any knowledge he has about Cransberg prison or anything like that whatsoever.

JUDGE MORRIS: He does say, however, Mr. Sprecher that on the morning of the 24th of March 1947 Mr. von Schnitzler became very talkative about events in the Cransberg prison, etc.

MR. SPRECHER: That's correct. He is relating what the defendant von Schnitzler raised to him.

JUDGE MORRIS: And then he states: "He made a number of statements to the effect that he had been put under a great deal of pressure by his

former colleagues about his cooperation with the Allies." I take it that refers to an event in Cransberg prison. Maybe I'm wrong about that, but that is what I assume from reading the affidavit.

THE PRESIDENT: The objection is overruled. Go ahead, gentlemen.
Ask your question.

BY DR. SEIMERS:

Q. Do you have any personal knowledge about events in Cransberg?

A. I was never in Cransberg.

Q. You learned of these events only from Dr. von Schnitzler - these events that you describe here?

A. What I write in this affidavit I learned from Mr. von Schnitzler.

Q. Then your testimony here is based on hearsay, is that right?

A. It is based on what Mr. von Schnitzler told me.

Q. Thank you.

On page 32, page 9 of the original, #7, page 35 of the English book, you say, Mr. Wolffsohn, that Dr. von Schnitzler, during his interrogations in Nurnberg, in 1947, occasionally talked about things that happened at Preungesheim.

A. Yes.

Q. What was Preungesheim?

A. Preungesheim was a prison near Frankfurt where, for example, Mr. von Schnitzler and other industrialists were imprisoned.

Q. According to your description, Dr. von Schnitzler let down his hair with you. Did he tell you that in interrogations at Preungesheim he was warned again and again?

A. What did you say?

Q. Did he tell you that in interrogations in Preungesheim or in the Taunusanlage, where his interrogations took place, he was warned repeatedly?

A. First of all, I can't remember whether Mr. von Schnitzler was interrogated at Preungesheim at all. I believe he was interrogated at the Reichsbank.

Q. Where is that?

A. Taunusstrasse.

Q. Taunusanlage. That's what I just said.

A. He only told me that he had been told that he had to tell the truth.

Q. Did he tell you that for days he was not allowed to go out and that he was forbidden to go to church?

A. Yes, at some time Dr. von Schnitzler did mention that, but he didn't say it in a tone that indicated that he was still worried about it then. That was in the beginning of 1947. He just mentioned it to me as a matter of fact, that's all.

Q. I would be grateful to you, Mr. Wolffsohn, if you too would stick to the facts. He did tell you about the fact?

A. Yes, of course.

Q. Did he tell you that after asking repeatedly, he was finally allowed to go to church and that he was put in a place which was otherwise used for condemned persons?

A. No, he did not tell me that. I am sure I would have remembered

that.

Q. Do you remember that Schnitzler, here in Nurnberg, was housed in the socalled "criminal wing" separate from the other Farben men and that he was not allowed to have any contact with the other gentlemen at the time of the interrogations - that was in February and March 1947?

A. No, I do not remember that. I was in the prison only once or twice and the rooms of the individual defendants - witnesses as they were then - were rather near one another.

Q. You know nothing about that. You don't remember that Dr. von Schnitzler mentioned that he was not allowed to talk to any of the other gentlemen and that he felt completely deserted?

A. No, certainly not.

Q. Do you remember that he told you that at Preungesheim he had been beaten?

A. Well, there's something that I don't remember exactly. Was von Schnitzler beaten or someone else? I am not certain. I can't remember exactly whether it was Mr. von Schnitzler.

Q. Do you remember that von Schnitzler told you that an interrogator in the Taunusanlage said to him: "You will be subjected to all third degree methods except torture".

A. I read that in the record of the interrogation.

Q. Did you talk to Schnitzler about it?

A. No.

Q. Do you remember that in an interrogation by Mr. Sprecher, Dr. von Schnitzler asked that he be given time to think it over and that

he was not given time?

A. I beg your pardon. I didn't understand your question.

Q. Do you remember that in an interrogation by Mr. Sprecher, Dr. von Schnitzler asked that he be given time to think it over and that he was not given this time?

A. As often as I was present during Mr. Sprecher's interrogations, if Mr. von Schnitzler asked for time to think something over, he was given that time.

Q. May I ask you to look at Document 223, Exhibit 182, on page 11. On page 10, the interrogation begins. This is the interrogation of 20 February 1947 in the afternoon. Preliminary question: you were present?

A. Yes, my name is on the record.

Q. Will you please look at page 11 at the bottom, the answer. Would you please read the answer that Schnitzler gives? The last line, Mr. Wolffsohn. I would appreciate it if you would be kind enough to read it.

A. May I read the question too?

Q. Yes, of course, It will be long, but.... ..

A. The question begins: "We have been discussing a picture. Now, let's talk about facts. I'll point out a fact which you stated and which is a falsehood, which is untrue. I'll point out a fact where one, two, three, four, five, six paragraphs are on one page and one short paragraph is on the other page. Your signature appears below and when I ask you

to point out what is false you say 'I had a false impression', and then you stop.

"A. Give me a certain time to think it over."

"Q. I beg your pardon?

"A. Give me a certain time to think it over. I am shocked."

Is that enough.

Q. It's enough, I believe, if you'll just look it over and tell us whether Dr. von Schnitzler got the time that he wanted to think it over.

THE PRESIDENT: The document will speak for itself unless the witness knows something about it personally.

Do you have some more questions?

DR. SIEMERS: A few, yes.

THE PRESIDENT: We'll rise for our recess at this time.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

CROSS EXAMINATION (cont'd)

BY DR. SIEMERS:

Q. Mr. Wolffsohn, you said first that you were not informed of the fact that Schnitzler was kept in a special wing of the prison reserved for criminals separately from other defendants. Is it correct that the prosecution gave the necessary instructions to what part of the prison the individual defendants present here were to be assigned?

A. First, I have to say this in that respect -- about the structure and organization of the Nuernberg Prison you cannot speak of a criminal wing -- a wing reserved for criminals. That is the first thing I have to say. Secondly, of course, I believe you won't differ with me, Mr. Siemers, -- witnesses will be kept separate from each other. At any rate, Mr. Schnitzler never complained to me --

DR. SIEMERS: Mr. Wolffsohn, that is not an answer to my question. My question was quite clear.

THE PRESIDENT: Dr. Siemers, it appears to us that you are getting beyond the subject of cross-examination now. You are going into matters that appear to be outside the affidavit, which is the limitation upon your right of cross examination.

DR. SIEMERS: Mr. President, if that was the case I ask your forgiveness I believed, however, not to be exceeding the scope of cross examination since Mr. Wolffsohn in his affidavit stated about the time of 1947 that

Schnitzler did not feel under any restrictions and that he never expressed anything to that effect, and therefore I must rectify that he was treated differently than the other gentlemen.

THE PRESIDENT: If the defendant von Schnitzler said anything that the witness heard on that subject, that might be appropriate, but for the fact that it is outside the affidavit we would not be interested in that. If you wish to modify your question as to whether or not the defendant made any statement or complaint about the treatment that he received in the prison, that, I think, would be within the affidavit.
BY DR. SIEMERS:

Q. Mr. Wolffsohn, did Schnitzler tell you, and I am now using the proper technical expression, that he was confined in the criminal wing, as opposed to other gentlemen who were confined in the witness wing?

A. No. By the way, Mr. von Schnitzler wasn't confined in the criminal wing at all.

THE PRESIDENT: We are concerned with what you heard from the defendant, Mr. Witness. We are not going to widen the scope of this cross-examination into facts that are not related either directly or indirectly to your affidavit.

A. Yes, your Honors.

BY DR. SIEMERS:

Q. Did he tell you that when taking his meals he was also kept in confinement and was not permitted to come together with the other people, although the other gentlemen were allowed to eat together?

A. No.

Q. Did Schnitzler tell you that he was very deeply impressed and moved by the fact that his wife was arrested when she wanted to visit him?

A. No.

Q. Do you remember that Mr. von Schnitzler told you the following — again about Praungesheim — when at the occasion of the Potsdam Conference, President Truman was in Frankfurt, several hundred persons, DPs, were locked up in the same prison there for security reasons. When these latter persons were released after two days, Schnitzler, together with two other gentlemen, was forced to clean out the one hundred buckets filled with excrement from the DPs — to clean out these buckets and to empty them out. Did he tell you that when he poured out his heart to you?

A. No.

Q. Now, we turn back again to 1947. Do you remember that at the occasion of Mr. Sprecher's interrogations Mr. Schnitzler burst out into tears?

A. Yes.

Q. Do you remember that on 28 August I made the motion in this court room that I objected against von Schnitzler's affidavits and that I stated that in 1945 and again in 1947 a certain pressure had been exerted?

MR. SPEECHER: I object. I don't think Mr. Wolffsohn is supposed to be an expert as much as some of the rest of us on that subject.

THE PRESIDENT: That would be wholly improper unless it's just for the simple purpose of trying to fix, as a preliminary, the date. Otherwise the record speaks for itself.

DR. SIEMERS: Mr. President, I thought that question would be permissible because I wanted to test the witness's memory with the next few questions, and these are events that are not dating so far back as the other events. It was only a preliminary question.

THE PRESIDENT: That is rather remote, Dr. Siemers, but answer the question Mr. Witness, if you understand it.

A. Yes, sir.

BY DR. SIEMERS:

Q. Do you know then that I made this objection on 28 August here?

A. Yes.

Q. Do you remember that after the end of the session I participated in a conference in Mr. Sprecher's room where my colleagues, Dr. Helmut Dix, Dr. Ernst Achenbach and Dr. Herbert Nath, were present, and you were acting as interpreter?

A. Yes.

Q. Do you remember that Mr. Sprecher, in an emotional tone of voice said, "You have made serious charges." He said this to me. "I am the representative of the United States of America and thus you have insulted the United States of America. If you do not withdraw your charges then you might even lose your robes. You must know what you are doing." Is that correct? Did he say that. Do you remember this event?

A. I cannot remember that Mr. Sprechre used those words, and I cannot remember that during that conference, which was conducted in his room, Mr. Sprecher spoke in an emotional tone of voice. I would be able to judge that because I have worked for Mr. Sprecher for a year and a half. But

that he used those words I don't remember.

Q. You don't remember that he expressly stated in connection with the charges that he spoke of the United States of America?

A. If I remember correctly, not during the conversation in his room. But I remember that on that same day Mr. Sprecher said in this courtroom-- he used the words 'As an official of the United States of America.' But in his room I do not remember.

DR. SIEMERS: Mr. President, then I should like to ask you to give me a chance to interrogate the gentleman, Dr. Helmut Dix and Dr. Nath about those events because they were also present, to clarify --

THE PRESIDENT: There are many good reasons why that request cannot be granted. In the first place it's wholly collateral to the inquiry here, and your only purpose, as you expressed it, for the question, was to test the memory of the witness. He has said that he does not remember. But the more fundamental reason is that of regard for the relationship of counsel for prosecution and defense which we have had occasion many many times to rely upon in the course of this trial. This Tribunal will not invade the sanctity of conferences between counsel. We have encouraged that thing and we have encouraged it in the hope and the expectation that it would be fruitful in aiding the trial of this case and I think experience has demonstrated that that hope was well founded. We shall not embarrass any member of the staff of either side by asking for any disclosure of your dealings as between yourselves and your opponents. That is a matter in which this Tribunal will not involve itself.

10 May-A-JP-22-6-Mills (Int. Katz)
Court VI Case VI

DR. SIEMERS: I have no further questions, to this witness.

THE PRESIDENT: Anything further?

DR. SIEMERS: Two more questions by my colleague, Dr. von Keller.
BY DR. VON KELLER:

Q. Witness, you said, a short while ago, that Mr. Schnitzler's knowledge of languages was excellent. Dr. Siemers pointed out to you an exhibit which he had offered in Book 2 of his document books, and the last sentence of which reads: "I have not much practice in English and have forgotten quite a bit."

A. May I ask you to tell me that page number again.

Q. This is in Document Book 2 on page 27 of the German and page 19 of the English -- the last sentence. During that interrogation of 18 February you were present in part. Do you know that during that interrogation Mr. von Schnitzler again pointed to his insufficient knowledge of English?

A. I don't remember that Mr. von Schnitzler pointed this out during that particular interrogation, but you can see that running through all of the interrogations like a red thread. From time to time Mr. von Schnitzler made some friendly remark to the effect that his English was not quite good enough.

Q. Thank you. From the interrogation of 22 February in which you participated, according to the record, do you know a passage where some confusion arose because Mr. von Schnitzler used the wrong translation of a German term at an essential point, and Mr. Sprecher himself pointed this out to him -- "I think you perhaps meant in general." Mr. von Schnitzler answered: "I mean with these words 'in der Sache' in the matter. I better should have put it in German."

Q. Where is that to be found?

A. In the record of 22 February. You don't have that before you.
Do you remember this incident?

A. No, but if I could have a look at the record I would know right away what is concerned.

Q. You are going to be shown the record. It's on the lower half of the page. Do you remember this passage? I only need your answer to that question.

A. Yes.

Q. Thank you. During another interrogation of 19 February 1947 do you remember a passage there. It's true that you are not listed among those people present in the record but it's still possible that you were there. There Mr. von Schnitzler says: "I did not mean this, 'only' makes no sense." Another passage: "Yes, and this (indicating) means impressive." And then Mr. Sprecher said, "Instead of the word " " " and then there is a correction made. In the same record Mr. von Schnitzler says: "From time to time I use English words which are not entirely correct." Mr. Sprecher: "Let me look." Schnitzler: "I think the word 'carefully' makes no sense here. I just replace that word. 'Successfully' I translated from the German. There I translated it 'carefully'." Sprecher: "Would 'properly' or 'successfully' be it?" Schnitzler: "Properly." Do you remember that passage?

A. No.

Q. There is one more passage in conclusion. I don't want to tax Your Honors' patience too much. "Mr. von Schnitzler", -- Mr. Sprecher says,
14144

"The second full paragraph on page 3 is not completely intelligible,"
And later: "The record will show that Mr. von Schnitzler has written the word 'not intelligible' and initialed the paragraph which he has stricken".
Is it correct to call somebody's knowledge of a language excellent if he writes whole paragraphs that are not intelligible?

A. When was that paragraph written?

Q. The paragraph is not quoted. I only have the record of Mr. Sprecher's interrogation. The interrogation itself took place on 19 February at 8 o'clock in the evening until 10 o'clock at night.

A. And the paragraph which Mr. von Schnitzler wrote -- when was that written -- in 1947?

Q. Presumably, but I cannot say it with certainty. That is a statement from 1945?

A. That is the explanation.

Q. My question was is the knowledge of language of someone who writes sentences that are unintelligible -- can that knowledge be called excellent or not?

A. Mr. von Keller. --

MR. SPEECHER: Mr. President --

THE PRESIDENT: I don't think that inquiry needs to be pursued any further. This witness has not held himself out as an expert on language and I will say with all modesty that I think the Tribunal is as capable of forming an opinion upon that as the witness in the box.

DR. SIEGERS: Mr. President, May I ask two more questions that I forgot. First, Mr. Wolffsohn, during the interrogations did Mr. von

Schnitzler have assistance by counsel or was he advised by any legal aid?

MR. SPRECHER: Mr. President, that is not in the interrogation but we will --

THE PRESIDENT: That is one of the surrounding circumstances. Can't you stipulate?

MR. SPRECHER: Yes, that is what I wanted to do, Mr. President. We will stipulate that during that time, Mr. von Schnitzler did not have the advice of counsel.

THE PRESIDENT: Ask your next question.

DR. SIEMERS: Did von Schnitzler ask that he be given legal counsel because of the voluminous interrogations?

A. Not, not as far as I remember.

Q. Did Mr. Sprecher point out to von Schnitzler that he could not get any legal aid?

A. I can't remember that.

Q. To refresh your memory, may I show you Schnitzler document 26, Exhibit 28, page 25 of the Document Book of the German text, page 17 of the English.

A. What page please?

Q. Page 17, of the document book. It's in the lower right hand corner where you can find the page number. Page 25 of the German.

A. What's the questions?

Q. Do you now remember that Mr. Sprecher drew the attention of Mr. von Schnitzler to the fact that he had no claim to legal counsel according to

the occupation law?

A. At the beginning of that interrogation I have already told you I was not present.

Q. Very well.

THE PRESIDENT: The question is only this. Were you present when that was said or that in substance by Mr. Sprecher to Mr. von Schnitzler, that under the military law he was not entitled to have counsel?

A. No, your Honor.

DR. SIEMERS: Did you hear anything like that?

A. I was not present.

THE PRESIDENT: That is an answer.

DR. SIEMERS: Do you remember that during these interrogations Mr. von Schnitzler was informed that according to the Control Council Law Ordinance Number 1 he was obliged to give any information desired?

A. Not in my presence.

Q. Did Mr. Sprecher tell you that he pointed this fact out to him?

THE PRESIDENT: That will be enough of the affidavit.

DR. SIEMERS: I have no further questions.

REDIRECT EXAMINATION

BY MR. SPRECHER:

Q. Mr. Wolffsohn, did the defendant von Schnitzler make any corrections to typographical errors which were contained in the 1945 reports that he had dictated to stenographers in Frankfurt?

A. Pardon me; I didn't get that question properly. Did you mean whether Mr. von Schnitzler made any corrections on the documents of 1945?

Q. Yes.

A. No, Sir; not as far as I know.

Q. Now, I am referring to the records which the OGCWC received of the 1945 investigations. Do you recall in any of the interrogations which you had with Dr. von Schnitzler that he pointed out any typographical errors?

A. Yes, he pointed out that there were typographical errors in those interrogation statements, affidavits, of 1945.

Q. Tell us whether or not my questions were corrected from time to time so far as their grammar was concerned.

A. Yes.

Q. Now, you mentioned on direct examination that the defendant von Schnitzler broke into tears on one occasion. You were asked nothing further about that. Do you remember anything about that incident?

A. Yes.

Q. Will you tell us about that?

A. If I remember very well, Mr. von Schnitzler was so overwhelmed by --

THE PRESIDENT: Just tell us what he said,

A. Well, Sir, he didn't say anything.

THE PRESIDENT: What were they talking about?

A. They were talking of the past and they were talking of the damage which the last twelve years had brought over Germany and the world and they talked of the misfortune which had befallen so many million of people in the world.

Q. Mr. Woffsohn, I would like to put one key word to you and ask you whether or not that refreshes your recollection as to the precise points.

THE PRESIDENT: Wait a minute; just ask your question. He is your witness. You produced him here and this is redirect examination, I suppose, and the witness has not indicated any need of refreshment. Just ask your question and we will save time, then if he doesn't---

Q. Will you tell us whether or not you recall any discussion about the laws of God and the laws of man?

A. Yes,

THE PRESIDENT: Is there anything in the affidavit about that?

MR. SPRECHER: There is something in the statement about von Schnitzler's breaking into tears.

THE PRESIDENT: Well, we will not go any further on that score. He has told what the subject matter was that caused that incident and you better stick to the affidavit, I think.

MR. SPRECHER: Well, may I ask Mr. Woffsohn if he has now stated the entire subject as he remembers it?

THE PRESIDENT: Well, we have heard enough about that. That is a

pretty small thing to go into a great deal of detail about, Mr. Prosecutor. I think you can well afford to get to something else. He has told us of the nature of the incident that provoked the defendant's breaking into tears. We are not interested in a great deal of detail of that.

MR. SPRECHER: I have no further questions.

THE PRESIDENT: Is that all from this witness? Then, Mr. Witness, you are excused from further attendance.

Now, getting back on our schedule, are there any of defense counsel ready to finish up the presentation of evidence on behalf of their clients.

DR. ASCHENHAUER (Counsel for the defendant Gattineau): I would like to offer the remaining documents of Supplement 3 of Document Books I to V.

THE PRESIDENT: Very well.

DR. ASCHENHAUER: I offer Gattineau Document 110 as Exhibit No. 188. I next offer Gattineau Document 111 as Exhibit 189; Gattineau Document 112 as Gattineau Exhibit 190. Gattineau Document 113 becomes Gattineau Exhibit 191. Apart from these, I have an affidavit of Dr. Gattineau. This affidavit I offer with reference to Prosecution's Document NI-15263 which was offered during rebuttal. The prosecution offered it as their Exhibit 2237 during rebuttal. I have the English translation here and am handing it to your Honors. There are four copies. This is Document 114 and I offer it as Gattineau Exhibit 192.

In conclusion I want to clarify something about Document Book I on page VI of the index. In order to prevent any confusion of your Honors, I want to point out that in the Ilgner Document 32, which was offered into evidence, the parentheses around "F Circle" is not contained in the German

and that the translation in the English was "Circle of Friends" for "F Circle." That is incorrect. It is incorrect to translate this "F Circle" as "Himmler Circle." If the contents of the parentheses were properly translated, it would have to read "Circle of leading personalities in the Ministry of Propaganda" instead of "Circle of Friends" or "Himmler Circle".

That is all I have to say and that concludes the presentation of my documents.

MR. SRECHER: Mr. President, if you will excuse an intrusion at this time, I think we can make the order a little clearer. In view of Dr. Gattineau's new affidavit, Gattineau Exhibit 192, which enlarges upon the statement he had made before concerning Verber's interrogation, we would like to submit another affidavit by Mr. Verber replying to the more specific point which the defendant Dr. Gattineau now makes. That is an express denial of the point and if the Gattineau affidavit is proper -- namely, Gattineau Exhibit 192 -- we submit that our proposed affidavit is quite as proper.

THE PRESIDENT: Well, now, what is this? You offered your former evidence on that subject as rebuttal and now here is the defense undertaking to meet the rebuttal and now you are offering new evidence on the subject.

MR. SPRECHER: Mr. President, as I understand it, this is a question that was raised with respect to so-called pressure and I take it that is a question with respect to which we are entitled to be heard until we have met the specific issues which are raised. If the Gattineau affidavit is submitted, we submit that Mr. Verber's reply is certainly permissible. It is on the direct point.

THE PRESIDENT: Well, I think you are correct about that.

DR. ASCHENAUER: Mr. President, may I then reserve the right to hand in an affidavit of Dr. Gattineau tomorrow? I gave you that affidavit just now and I can give you the name of the person making the statement, "Dr. Gattineau, think of your family." The person was Mr. Wolffsohn. If your Honors consider it important to have an affidavit made about that statement, of course, you can have it.

THE PRESIDENT: Perhaps you better wait and see what the prosecution offer you. You may not want to answer it. If you do, then you can address us afterwards. Let's not anticipate trouble here. We have enough in actuality. Offer your exhibit, Mr. Prosecutor, and give Dr. Aschenauer a copy of it.

MR. SPEECHER: He has quite a few copies, Mr. President.

THE PRESIDENT: Very well.

MR. SPEECHER: Our NI-1529, then, will become Prosecution Exhibit 2264. Here are copies for the Tribunal. It is very short.

THE PRESIDENT: Are you familiar with it, Dr. Aschenauer?

DR. ASCHENAUER: Yes, I have perused it.

THE PRESIDENT: Now, you are asking us to permit you to reply to that with another affidavit?

DR. ASCHENAUER: Which is an affidavit which is to confirm what I said just now and to give the name of the person of the prosecution who made that statement. If the Tribunal considers that important and necessary, then you can have such an affidavit. For the rest that question can be answered by Dr. Gattineau now in the witness box if you so desire it.

MR. SPEECHER: Mr. President, we on this question of pressure from the

beginning have attempted to insist upon no rights whatsoever with respect to placing limitations. What I am about to say now is not indicated any change in our policy with respect to this matter. We have attempted insofar as we can to answer all these types of things fully and frankly but if now Dr. Aschenauer starts to add what he could have said in his first affidavit of Gattineau and specify the details, then, of course, we will have to ask the details but I think there is a question of diligence in not indicating what apparently the defendant Gattineau knew before about this same point.

THE PRESIDENT: Well, without establishing any precedent on the part of the Tribunal, you bring your affidavit up in the morning and offer it to counsel.

DR. ASCHENAUER: Mr. President, I ask your permission to call the defendant Dr. Gattineau to the witness stand and we can decide that question very easily. I think it would be more quickly and expediently handled that way.

THE PRESIDENT: Dr. Gattineau may take the witness stand at this time and we can close this matter up.

THE PRESIDENT: Now, counsel, on your own statement about all we are concerned with is your answer to this one single proposition of the identity of the person referred to. So let us keep on the road, and make it brief.

REDIRECT EXAMINATION

HEINRICH GATTINIAU

BY DR. ASCHENAUER:

Q. Witness, I refer you to your oath that you gave before the beginning of your direct examination.

I now ask you about the affidavit I submitted which you signed on the 8th of May 1948. Do you have anything to add about the name of the person who said that you should "think of your family"? Have you anything to add?

A. That person was the head of that group of three men conducting that interrogation, and the name of that person is Mr. Wolffsohn.

Q. Was that the same gentleman who preceded you in the witness box?

A. Yes, it was.

DR. ASCHENAUER: I have no further questions.

THE PRESIDENT: Any questions, Mr. Prosecutor?

MR. SPRECHER: No questions.

THE PRESIDENT: You are excused. (Witness excused).

Dr. Siemers, when do you wish to present your additional von Schnitzler documents? Would you like to do that this afternoon?

DR. SIEMERS: I would be ready to do this now, but my colleague asked

me to be permitted to offer some documents now.

THE PRESIDENT: Very well.

DR. HENZE (Counsel for defendant Kugler): I have one more document to offer to refute a document which the Prosecution submitted during cross-examination. This is Kugler Document 61, which I offer as Exhibit 62. It is an affidavit of Dr. Georg Pech and it is dated 4 May 1948. Your Honors are being handed an English copy.

This concludes everything I have to offer on behalf of Dr. Kugler.

On behalf of my client Dr. Oster I have Document 3 as Exhibit 14. I have offered that; that was an affidavit of several gentlemen which did not have the proper certification. I am now handing the Secretary General this affidavit with the necessary certifications. In my Document 33, Exhibit 43, a statement of Mr. Lolong also did not have the certification, so that at the time I was able to offer it for identification only. I now have obtained the necessary certification. Since it does not completely coincide with the previous text, I offer the new document as Oster Document 58. This is a French copy that has been mimeographed and is available.

My Document 38, Exhibit 39, was an affidavit of the chairman of the Netherlands — it wasn't an affidavit, it was only a statement of the chairman of the Netherlands Bank, Holltropp, and this person informed me that he is in agreement with having that affidavit offered but for reasons which are understandable he asked me to try to have him do without giving the proper certification. I leave it up to Your Honors to judge the probative value. This is all the outstanding documents.

THE PRESIDENT: Now I believe, counsel, that we have all your documents

except your Exhibit 58, is that correct?

DR. HENZE: Yes, Exhibit 58 I have offered in several copies to the Secretary General just now, but it is in French, in the original.

THE PRESIDENT: Now, that is Document 58, Exhibit 58; Oster?

DR. HENZE: Yes, Your Honor.

THE PRESIDENT: Does that conclude your presentation?

DR. HENZE: Yes.

THE PRESIDENT: Thank you.

DR. BERNDT (Counsel for defendant ter Meer): Mr. President, in the affidavit about which Mr. Wolffsohn was interrogated today, which is to be found in Book 94 of the Prosecution, on page 4 of the original it is stated at top: "That is to say, von Schnitzler made a number of remarks which went to the effect that he had been put under a great deal of pressure by his former colleagues because of his 'cooperation' with Allied authorities during the investigations in 1945 and because of the information he had given to them. He stated that he was convinced that the criticism which Dr. Fritz ter Meer and other technical Vorstand members of Farben had made were not only unjustified but that he was now more and more convinced that his original assertions concerning the developments of I.G. Farben under the Nazi regime were true." In other words, Mr. von Schnitzler here charges the other Vorstand members, and particularly the technical Vorstand members, and very particularly my client, Dr. ter Meer, with having exposed him, Dr. Schnitzler, to considerable pressure. I believe it is my duty to show that the technical members of the Vorstand, and particularly Dr. Fritz ter Meer, did not exert such a pressure upon Dr.

von Schnitzler. I ask that I be permitted to call Dr. ter Meer to the witness stand in that respect.

THE PRESIDENT: I am wondering how your request fits in with the announcement of the Tribunal with regard to an affidavit of a defendant who does not testify not being binding on anyone else. Now, if you violate that rule, then this would be pure surplusage. In other words, if the situation under which this matter arises is that you are undertaking to have Dr. ter Meer explain something that you think may apply to him, that is contained in the affidavit or interrogatory of Dr. von Schnitzler, you are just borrowing trouble because under the ruling of the Tribunal Dr. von Schnitzler's affidavit is no evidence against Dr. ter Meer.

DR. BERNDT: Mr. President, the passage that I quoted is not a passage I took from an affidavit of von Schnitzler. I took it from an affidavit of Mr. Wolffsohn. Mr. Wolffsohn is the person stating that Mr. von Schnitzler made a certain remark to him.

THE PRESIDENT: That is not in an affidavit, you mean? That is aside from the affidavit?

DR. BERNDT: It is in the affidavit of Mr. Wolffsohn and it is not in an affidavit of von Schnitzler.

THE PRESIDENT: I understand.

DR. BERNDT: May I say one more thing?

THE PRESIDENT: Yes, surely.

DR. BERNDT: I am expressly not going to ask him about what is contained on the next page, for there is something contained from a von

Schnitzler affidavit. I am not going to make that the subject of my examination; I am only going to ask about Mr. Wolffsohn's statement about Mr. von Schnitzler's assertion.

MR. DIX (Rudolf): May I say one thing, please? Your Honors, I am also of the opinion that my application made by me this morning does not cover this case.

THE PRESIDENT: I think you are right about that.

MR. R. DIX: I only made my application that insofar as affidavits or statements of defendants are contained that are not going to be called to the witness stand, but this, as my colleague properly states, is the statement of Dr. Wolffsohn.

THE PRESIDENT: Dr. Berndt, your position, we think, is sound, and you are entitled to ask the defendant ter Meer.

Now the defendant ter Meer may take the witness stand, but let me remind you now, Dr. Berndt, of the very, very narrow field of your inquiry, that we do not wander out into strange lands.

MR. BERNDT: Yes, I am well aware of that.

RE DIRECT EXAMINATION

DR. FRITZ ter MEER

BY DR. BERNDT:

Q I want to call your attention to the fact that your statement today is also subject to the oath that you gave at the time before your direct examination?

A Yes.

Q You yourself were in the Cransberg Camp; from what time until what time were you in that camp, approximately?

A From approximately the middle of June, 1945, until the first days of October, 1946.

Q Can you tell me when Mr. von Schnitzler arrived in the Cransberg Camp?

A As far as I remember on the second Christmas Day of 1945.

Q When had you seen Mr. von Schnitzler for the last time before he arrived in Cransberg?

A As a result of my imprisonment, I had not seen him for quite a while, of course, especially because I was arrested in Italy. I might have seen him last during my last visit from Frankfurt in February, 1945. In other words, I had not seen him for approximately one year.

Q Did you share one room with Mr. von Schnitzler?

A Yes.

Q At Christmas 1945, the time when Dr. von Schnitzler arrived in Cransberg were there tensions or differences of any kind?

A No, not at all. There was no reason for that. Our relationship

was formal, the same as it had been before in former years. The only thing that was different was that Mr. von Schnitzler was in a physical and mental state of depression. Otherwise, everything else was normal.

Q When did you and Mr. von Schnitzler for the first time talk about the so-called statement of Geheimrat Schmitz?

A That was on the 12th of March, 1946, during a joint discussion with several colleagues and where Mr. von Schnitzler was also present in my room. We saw immediately at the time that that statement of Mr. Schmitz was completely mistaken, in many points and particularly in technical points, and that was the reason for drafting the so-called Cransberg Memorandum, which is Prosecution's Document 5187, Exhibit 334. This memorandum was sent to FIAT in Frankfurt, on 30th of March, 1946.

Q What is FIAT, for explanation?

A I only know the abbreviation. I don't know it.

Q I do not know it either.

MR. SPRECHER: It is Field Intelligence Agency, Technical".

BY DR. BERNDT:

Q That is the agency that investigated Farben's activities and had its office in Hoechst; is that right?

A Yes, I assume so.

Q Who signed this memorandum and the letter to FIAT?

A The memorandum and the letter to FIAT was signed by me personally. In the letter to FIAT it was pointed out expressly that the memorandum had been discussed with the other gentlemen at Cransberg from the Vorstand of Farben and that these people were in agreement about the content.

THE PRESIDENT: Dr. Berndt, I am advised by my associates, and I think they are correct, that there is an affidavit in evidence fully covering that phase of your inquiry. If that is true, you should not go over this field again. If you wish to get to the very narrow and specific question upon which you predicated your request to recall the witness, you are entitled to do it, but it is a very narrow field.

DR. BERNDT: Mr. President, I am now coming to that, but I do not believe that the following questions I am going to ask now, would have been understood without my preliminary questions.

Q You just said now, Dr. ter Meer, that in this memorandum it was stated that the other Vorstand members were in agreement with the context of that memorandum. Did this statement about the agreement of the other Vorstand members include Mr. von Schnitzler as well?

A I must first correct something. It was not in the memorandum where it was stated; it was the accompanying letter.

Q I beg your pardon.

A This statement in the letter included Mr. von Schnitzler quite clearly. That can be seen from the fact that Mr. von Schnitzler, in his letter of the 10th of June, 1946, to FIAT, says in the last paragraph of that letter, that he is among those persons who were in agreement with the drafting of the memorandum and the signing of the memorandum.

Q During the conversations which preceded the drafting of the so-called memorandum, - during these conversations did you or any of your colleagues exert any pressure upon Mr. von Schnitzler, and particularly

to the effect that he should recognize and agree with the context of this memorandum?

A No, that was not the case at all. The events were the following. We got knowledge of Mr. Schmitz' statements and that caused us, to say the least, some surprise, since it contained some erroneous statements, and that, of course, we talked about it, and that during those circumstances we immediately got the idea that either together or one of us, should make a correction or reply to this statement of Schmitz.

I made such a memorandum. It was talked over during the regular meetings in a circle of 4 or 5 people, every morning, in which Mr. von Schnitzler undoubtedly was present, when we dictated the text, the changes were all consulted about together, and finally, the text, with the agreement of all people present was sent out also with the agreement of Mr. von Schnitzler. As I state in my letter, the only one who did not join in this common agreement was Mr. Schmitz, and I pointed out that fact in the letter.

Q Did Mr. von Schnitzler object to the contents of the letter?

A No.

Q In your statement on the 30th of April, in this courtroom, you mentioned a certain difference of opinion between yourself and Mr. von Schnitzler. What brought this difference of opinion about?

A It can be explained very easily from a psychological point of view. That small personal friction may arise if two persons who are not very young any more, have to live together in a small room. Added to that, was the fact that Mr. von Schnitzler and I are persons of very varying natures, and for some minor reason, something became too much for me, and

since I saw Mr. von Schnitzler to be the spiritual father of the incriminating statements made by Mr. Schmitz, I told this, in a very unmistakable manner, to Mr. von Schnitzler. That was the conflict in June of 1946.

Q I notice that you only speak of Geheimrat Schmitz' statement, but I have a very thick volume before me; I was given Prosecution Book 16, with a number of other statements made by Mr. von Schnitzler, all of which are dated "1945". Didn't those statements have anything to do with causing your differences of opinion with Mr. von Schnitzler?

A No, we did not know of them at the time. Those statements contained in Book 16 of the Prosecution, became known to us only during the trial here in Nuernberg.

Q But you must have known that Dr. von Schnitzler was repeatedly interrogated in the course of the summer of 1945?

A Yes, we knew that. We knew that from his colleagues, for instance, Dr. Ilgner who was together with him during that time, but about the detailed contents of his statements, he did not tell us anything.

Q Didn't you ever ask Mr. von Schnitzler about it at the time?

A Yes, we asked him very urgently about the situation. After the erroneous statement of Mr. Schmitz, made partly with the assistance of Mr. von Schnitzler, we feared of course, that perhaps some erroneous or wrong statements or other statements which might incriminate our firm erroneously, might have been made otherwise, and we wanted to know that too, but Mr. von Schnitzler did not want to make any detailed statements

about those things at the time.

Q You say, "To us"; who else talked to Mr. von Schnitzler and asked him?

A It was always the same group of people who met during a number of weeks every morning in my room, and who talked about these things, because we could not know whether perhaps some indictment might be launched against us, since a list of leading Farben personalities had been published in the United States. A number of questions we recalled mutually to our minds which might be of importance if any indictment was launched against these people, and in these conferences Mr. von Schnitzler, Dr. von Knieriem, Dr. Ilgner and I myself participated regularly. The other three Vorstand members, who were Dr. Hoerlein, Gajewski and Buetefisch did not participate regularly. Sometimes one and another time another one.

DR. BERNDT: Mr. President, I have no further questions.

THE PRESIDENT: Anything further?

BY DR. SIEMERS:

Q. Dr. Ter Iber, in the spring of 1947 -- in March and April 1947 -- were you able to speak to Dr. von Schnitzler here in Nurnberg in the prison?

A. No. Because of the prohibition to talk I didn't have a chance to speak even a single word to him.

Q. Was Dr. von Schnitzler in the same wing of the prison as you and the other people of Farben?

A. Not as far as I remember.

THE PRESIDENT: Dr. Siemers, you're getting out of the field of proper examination of this defendant.

DR. SIEMERS: I should be grateful if you could permit me to ask these questions because they supplement my questions to Mr. Wolffsohn and it would clarify the facts a little more.

THE PRESIDENT: There's nothing in the Wolffsohn affidavit about that, is there? I don't remember anything in the Wolffsohn affidavit about the defendants not being permitted to talk together or be together in the prison. That was brought in the examination. That's just the trouble. If we get away from the proper subject of inquiry into other things, there's really no end to the matter. Now, if I am wrong about that and there is anything in the Wolffsohn affidavit on that subject, I'll change the ruling very promptly, but I don't think there is.

DR. SIEMERS: Mr. President, the Wolffsohn affidavit says that Dr. von Schnitzler was not made subject to any restrictions during the time of his interrogations here in Nurnberg, by Mr. Sprecher.

THE PRESIDENT: That's quite an entirely different thing from restrictions that may have been imposed some place where he was in prison. You would quite naturally construe that to mean that he wasn't under any pressure when he was interrogated. That is the natural and logical conclusion; that there was restriction on him in the prison or somewhere else before, seems to me is outside the scope of that affidavit.

DR. SIEMERS: Mr. President, I wanted to show that upon instigation of the prosecution Mr. von Schnitzler was treated differently from the other persons of Farbon. I believe those are restrictions which might have an influence.....

THE PRESIDENT: Very well, we'll solve the problem for you. We don't want to keep reopening issues here. The Tribunal will exercise its own discretion and ask the witness one question and with that we'll terminate this inquiry.

Dr. Ter Meer, is it or is it not a fact that in the prison the privileges of association between the defendants were restricted with respect to Dr. von Schnitzler? Your associations with him, as distinguished from the associations between other defendants?

THE WITNESS: I cannot say that. Our freedom of movement at the time was so small and we, amongst ourselves, were completely prohibited from speaking to each other and, therefore, I cannot compare Mr. von Schnitzler's situation with other people's situation, and they differed only because of the fact that he was in another wing of the prison. But again this I cannot state definitely because very shortly after we arrived here again in April, Mr. von Schnitzler was taken to Dachau so that we were here together

only for a period of approximately eight days. At any rate, I was in one common cell with Dr. Ilgnor during those eight days and we could speak together, but Dr. von Schnitzler was kept in confinement separately.

THE PRESIDENT: That's enough, isn't it?

BY DR. SIEMERS:

Q. Did you eat together with the other gentlemen?

A. Only with Dr. Ilgnor because we eat in our cell.

DR. SIEMERS: I have no further questions.

THE PRESIDENT: Anything further with Dr. Ter Meer now on the part of any member of counsel? Then you're excused, Doctor, and you may return to your seat.

MR. SPRECHER: Mr. President, Mr. Wolffsohn has returned at my request and I would like to have him called to the stand in connection with the same matter that the defendant Gattineau talked about. I think that it won't take but a minute.

THE PRESIDENT: That's just sixty seconds.

Take the witness stand, Mr. Wolffsohn.

Try to keep the inquiry in the narrow field here, Mr. Prosecutor.

HANS WOLFFSOHN, a witness, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. SPRECHER:

Q. Mr. Wolffsohn, you have been on the stand today and I think you know from all the interrogations, you are still considered to be under oath.

Do you recall an interrogation in the evening in February or March,

sometime before the indictment was issued, when you were present when the defendant Gattineau was interrogated?

A Yes.

Q I have one question. During that interrogation or any other interrogation, did you ever say to Dr. Gattineau or to any other interrogatee, that in making his answers he should consider his family?

A No, sir.

Q Did you ever say anything that was in substance like that - anything in substance like that or any similar fact to Dr. Gattineau or any other interrogatee?

A No.

MR. SPEECHER: No further questions.

THE PRESIDENT: That does close the issue on that. Very well.

CROSS EXAMINATION

BY DR. ASCHENAUER:

Q Mr. Wolffsohn, in order to refresh your memory, may I ask you in connection with the interrogation, didn't you say to Mr. Gattineau "Are you married?"

A No.

Q Do you preclude that possibility altogether?

A Yes, because I had looked at Mr. Gattineau's questionnaire while it was in my office with other questionnaires and I made the necessary notes on my file index cards.

Q Didn't you say that when you wanted to draw Gattineau's attention

to the fact or when you thought you had to point this fact out to Dr. Gattineau when, in your opinion, he had contradicted himself repeatedly?

A No, such a remark I consider incorrect and I didn't do this.

Q Apart from Mr. Verber who else was present during that examination?

A Mr. Levy.

Q Then you hold the opinion that you did not make the remark "Think of your family?"

THE PRESIDENT: Counsel, the witness has made it specific that he did not make that remark or that in substance anything like it and that's the only thing he was asked about by Mr. Sprecher and there's no use of having him repeat his testimony over and over. That ends it.

BY DR. ASCHENAUER:

Q Then I have one last question. Didn't you also say to Mr. Gattineau in the connection I stated: "You, Dr. Gattineau, know what's going to happen to you"?

A Am I to answer to that?

Q Please go ahead.

A Certainly not and I didn't know what would happen to him anyhow.

THE PRESIDENT: He's answered your question with an emphatic no.

THE WITNESS: I'm sorry, Your Honor.

DR. ASCHENAUER: Thank you. I have no further questions.

DR. SIMERS: May I fill in the last five minutes, Mr. President, in offering documents?

I am concerned with my Document Book 10 which contains only supplementary documents about Francolor.

THE PRESIDENT: You mean Book 11, do you not, Dr. Siemers?

DR. SIEMERS: No, 10 and 11, Mr. President.

THE PRESIDENT: We don't seem to have any Book 10. We do not have a Book 10. We have a Document Book 11.

DR. SIEMERS: 10 and 11 were processed upstairs with Judge Merrill's permission and they were supposed to be finished simultaneously.

THE PRESIDENT: None of us have any Book 10.

DR. SIEMERS: May I then at least offer Book 11 and be permitted to offer Book 10 tomorrow? I shall find out what happened to it.

THE PRESIDENT: Very well.

DR. SIEMERS: Document 193, Exhibit 183. Document 194, Exhibit 184. Document 195, Exhibit 185. 196 is Exhibit 186, an affidavit of Hans von Raumer. Document 197, Exhibit 187, an affidavit of Wilhelm Zangon. Document 198, Exhibit 188, an affidavit of Dr. Felix Ehrmann from the Economic Group Chemical Industry. Document 199, Exhibit 189, an affidavit of Fritz Fischer-Jone about the Exposition and Fairs Committee. Document 204, Exhibit 190, an affidavit of Erich Mueller about the foreign organization of the Party. Document 205, I beg your pardon. The previous document which was correctly given by the interpreter was 204 and not 200. That was Exhibit 190. Document 205, Exhibit 191, an affidavit of Guenther Frank-Fahle about the opposing attitude towards the Abwehr Department. Document 206, Exhibit 192, an affidavit of Erwin Kritzer. Document 207, Exhibit 193, an affidavit of Kurt Nadolski. Document 208, Exhibit 194, an affidavit of Boldt. Document 209 is Exhibit 195, an affidavit of Olga Rosengart-Schnitzler. Document 210 is Exhibit 196, an affidavit of Dr. Reinhard Goldberg. Document 211 is

Exhibit 197, an affidavit of Wilhelm Bormann. That's not the politically notorious Bormann but the person from Farben in Frankfurt. 214 is Exhibit 198 and Document 215 is Exhibit 199. 216 is Exhibit 200, all three affidavits of Mr. von Szilvinyi. Document 217 is Exhibit 201, an affidavit of Hermann Mohr and Document 218 is Exhibit 202, the latter a joint affidavit on behalf of the defendant von Schnitzler made by 29 of his former subordinates and I should merely like to refer that that affidavit was made without any of the assistance of the defense, made out on the own initiative of the employees. Document 219 I have already offered as Exhibit 181 during the examination of Dr. Goering. This is his affidavit about the Reich Group Industry. Document Book 11 is concluded and I should therefore be glad to offer Your Honors Document Book 10 tomorrow. There are four or five documents that have been received in the meantime from the Document Center, Room 316, which must be submitted without translation. I can do so now or perhaps tomorrow. What would you rather have me do?

THE PRESIDENT: We have had a pretty busy day, Dr. Siemers, and since you do have a book to present in the morning, we'll allow you to offer those additional documents at the same time.

Are there any announcements that are necessary now before we recess for the day? If not, may I, on behalf of the Tribunal, suggest to you gentlemen who have not yet completed the presentation of your odd books and documents to get them in shape to promptly present them tomorrow. We shall have that matter to deal with and also two witnesses so it will be a rather busy day and we want to take advantage of every moment

COURT VI, CASE VI
10 May 48-27-8-A-DJG-Leonard (Katz)

of available time.

The Tribunal is in recess until 9:00 o'clock tomorrow morning.

(A recess was taken until 0900 hours, 11 May 1948)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11812-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" " "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
→ 10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savelsberg	14387-14424
11 May 1948	Karl Aunscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
→ 10 May 1948	Friedrich Selcher	14482-14494

During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	114036	11145
2305	114034	11182
2306	15070	11183
2307	114236	11302
2309	114232	11312
2311	15062	11327
2312	15063	11330
2314	114257	11468
2315	13524	11473
2316	114256	11473
2317	114251	11485
2318	114252	11476
2319	114014	11482
2320	114039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	114098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of hearing before a Commissioner
for Military Tribunal VI, Case VI, in the matter of
the United States of America against Karl Krauch, et
al, defendants, sitting at Nurnberg, Germany, on
10 May 1948, Commissioner Johnson T. Crawford, presiding.

THE MARSHAL: The Commission for Tribunal VI is now in session.

THE COMMISSIONER: Is this the prosecution's witness or the defense
witness?

BY DR. SIEMERS (for Dr. von Schnitzler): Dr. Winkler is a witness who
made out an affidavit. The prosecution has informed me that they want
to cross examine Dr. Winkler; therefore I am making Dr. Winkler avail-
able for cross examination. As far as I am informed, this is the
affidavit Schnitzler Document 124 which was offered as Exhibit 127 and
was admitted by the Court as such. This is in Volume VII of my document
books. This is an affidavit of Dr. Winkler of 22 March 1948 and concerns
itself with the Boruta. Is the affidavit correct in this form, witness?

A. Yes.

Q. I just have one more additional question. When Dr. Herle and
Geheimrat Mahnke had decided for economic reasons to sell Boruta, were
there any other people interested at that time?

A. Yes.

Q. That is, a firm who wanted to take over Boruta?

A. Yes. I recall that a firm from Frankfurt on the Main tried to
obtain the enterprise. But I

Q. Pardon me. Do you know the name of this firm?

A. At the moment, I can't remember.

Q. Well, since you say Frankfurt on the Main

14173



THE COMMISSIONER: Well, if you are going to question the witness, I don't think he has been sworn as yet.

DR. SIEMERS: I beg your pardon, sir.

DR. MAX WINKLER, a witness, took the stand and testified as follows:

THE COMMISSIONER: The witness will raise his right hand and take the oath:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

THE COMMISSIONER: The witness will be seated.

DIRECT EXAMINATION

BY DR. SIEMERS:

Q. Would you please repeat the confirmation of the affidavit?

A. I made out the affidavit on the 22 of March 1948, and gave it to the attorney, Dr. Siemers. I confirm that this represents my opinion and my testimony.

Q. Will you then answer the question I just put to you: were there any other people who were interested at the time when the main trustee offices decided to sell Boruta?

A. Yes. A firm from Frankfurt on the Main tried to acquire the enterprise. In the meantime, I was able to recall the name. The Proprietors of this firm were called Gutbrod.

Q. Dr. Winkler, were there any special reasons why the main trustee office East sold Boruta to Farben instead of Gutbrod?

A. According to the information we received, Gutbrod were not experts in this field. I didn't receive good information about them

otherwise, and I was convinced that they did not have the necessary financial means to pay for the enterprise and to expand it, which was a prerequisite for continuing the enterprise.

Q. Thank you. I have no further questions. Dr. Winkler is available for cross examination.

CROSS EXAMINATION

BY DR. NEWMAN:

Q. Dr. Winkler, in the affidavit before you, you made some statement concerning the Boruta plant in Poland, concerning the party who took the initiative in Farben's acquiring title, concerning the purchase price, the investment contemplated, the meetings attended by you, and so on. Now do you recall that I also interrogated you on this topic on September 9, 1947?

A. Yes, I recall.

Q. Do you recall whether your statement at the time was made under oath?

A. Yes.

Q. Were you given an opportunity to read the transcript of your interrogation before signing and did you then sign it?

A. Yes, I read the transcript beforehand and then I signed it.

Q. Now I shall read to you the last half page of your interrogation. Since I shall read it in the English, you will also be given a German original photostatic copy of your interrogation, NI-15292, which we mark for identification only as Exhibit 2350. Please listen carefully and then tell us whether you recall that this at the time was your interrogation. Now I quote:

"Q. Do you remember the sale of Boruta?

"A. Boruta?

"Q. That is a Polish chemicals factory which was located near Lodz.

"A. I know that there were negotiations, as far as I know, with I.G., but I am in no position to give you details about it since I have not conducted these negotiations personally.

"Q. Who did conduct them?

"A. As far as I know, the manager of my department Economy, Dr. Jakob Harle, H-E-R-L-E."

Now let me direct you for a moment. In the German original minutes before you, do you see that the stenographer had taken down your answer by just saying, I quote, "The manager of my department Economy, Dr. Jakob Harle." You will then see the two letters: MW. These two letters have been added in longhand standing for "meines Wissens" — according to my knowledge. Will you please tell us, have these two letters been inserted by you in your own handwriting?

A. Yes, I inserted those.

Q. Thank you. Now I shall go on reading the last part of the minutes.

"Q. Where is he at present? " ("He" refers to Dr. Herle.)

"A. I don't know. He used to be in Berlin.

"Q. You don't know of any details?

"A. I understand he was deported by the Russians.

"Q. Did you know G₃heimrat Mahnke, M-A-H-N-K-E?

"A. Vaguely. I know that there was such a man, but I did not know him personally. As far as I can remember, Herle conducted the negotiations. I can remember only quite vaguely that there were negotiations, that they were drawn out, to and fro, and then, as far as I remember, one day they reached a result."

Now just tell me, are these the answers you gave me at that time?

A. Yes. I signed these minutes and I gave the answers as they are here.

Q. Dr. Winkler, where are you staying at present?

A. The hospital of the court prison.

Q. And where were you staying at the time of the interrogation?

A. Here, in the court prison.

Q. Have you continually been in prison since that time?

A. Yes.

Q. Thank you. Now is it not true that on the strength of your interrogation, from which I was just reading the last part, an affidavit was prepared which was then signed and sworn to by you?

A. Yes.

Q. Now the German copy of your affidavit, dated September 9, 1947, will be submitted to you. We introduce this affidavit in evidence

Court VI, Case 6, Commission
10 May 48 - M - 4-3 - LJC - Gaylord (Int Lea)

under its old exhibit number 1132. It is NI-10727. I would like to state for the record that this affidavit was originally introduced by the prosecution but later withdrawn. It is now being reintroduced. It can be found in Prosecution Document Book 55, English Page 30, and German Page 42. Now will you please follow me when I read to you the last two lines of this affidavit. You have state, I quote:

"I myself did not negotiate concerning Farben's acquisition of Boruta; as far as I remember Herr Jakob Harrle was competent for this; I might be mistaken, however."

Now please just tell us whether you recall that you read, corrected, swore to, and signed this affidavit?

A. Yes, I read the affidavit; I swore to it; and I signed it too.

Q. Thank you. I have no further questions.

DR. SIEMERS: Dr. Siemers.

REDIRECT EXAMINATION

BY DR. SIEMERS:

Q. Dr. Winkler, you know the affidavit of 22 March 1948, the affidavit of 9 September 1947, that is Exhibit 1132, and your interrogation. Do you have these or do you recall these documents so well that you can tell me whether in your opinion there is a contradiction in these three documents?

A. No, I cannot find any contradiction in them. During the interrogation in March I was questioned by Dr. Newman, and I told him what I remembered. I have had to deal with thousands and ten thousand cases like that in the course of business.

DR. NEWMAN: For the record, I would like to state a mistake. You mean September 1947, not March?

THE WITNESS: That is right, September 1947. I testified at the time to those things which I was able to remember after such a long time and during an interrogation for which I was not prepared. I did not recall anything more, and I could not testify to anything more than I was in a position to do, according to the best of my conscience and recollection. When I went further during the interrogation of Dr. Siemers, it was because Dr. Siemers made available to me documents and pertinent material about these things which considerably refreshed my memory and put me in a position to treat the matter in more detail, to organize it better and then to testify. If I had had anything to support my memory or any documents during the first interrogation, then I probably

would also have been in a position to recall more, but as matters stood, I couldn't do this until later on.

Q. You spoke of documents which I showed you. Were these the documents which the prosecution had submitted, do you remember?

A. No. You reminded me of the fact, or rather, you showed me, that I had approved this sales agreement, and I thus had the possibility of recalling the matter, which I was not able to do from my own memory after so many years.

Q. Do you remember, Dr. Winkler -- I don't know, maybe you didn't see it -- that I showed you these things to refresh your memory by showing you documents which I received from the prosecution?

A. I don't know that exactly. I don't know what documents they were.

Q. Do you remember, Dr. Winkler, that I showed you, for instance, the sales agreement which revealed that the sales agreement had been concluded by Dr. Mahnke?

A. Yes.

Q. For the record, I would like to say that this is one of the documents, that is Exhibit 1150, from Prosecution Document Book 56. Dr. Winkler, you just said, and you said that in your affidavit, too, that considerable investments were necessary?

A. Yes.

Q. Could you briefly tell us if you still know what in general these investments were needed for?

A. To the best of my recollection for everything which is needed

for such a factory, that is, technical installations, machinery, constructions, and I still remember today that mention was made of the construction of workers' homes because the factory was away from the town and there was no space to house the workers. In other words, we had to construct some such accommodations.

Q. Do you remember whether these were Polish workers or other workers?

A. I never was in that town, but to the best of my general recollection these were almost exclusively Polish workers. I don't know of any others who were there. Of course, there might have been Germans among them, but I don't know, at any rate, those workers, who were there previously.

Q. I beg your pardon if I ask too much of you, but do you happen to remember approximately how many workers were in Boruta -- I would like to have an approximate estimate apart from the sales agreement.

A. I don't remember that exactly, but I could estimate . . .

MR. NEWMAN: I object to this question. It has nothing to do with my cross examination.

COMMISSIONER: The objection will be noted in the record.

DR. SIEMERS: For Mr. Newman's sake, I shall withdraw the question. I have no further questions.

COMMISSIONER: Any other defense counsel wish to question the witness? Then does the prosecution have any further questions? I believe this is all we have until 1:30. So the prosecution will take a recess until 1:30.

(A recess was taken.)

THE MARSHAL: The Commission is again in session.

DR. EISENBLAETTER: Dr. Eisenblaetter for Professor Lautenschlaeger. I would like to make a brief announcement. Of the witnesses for Professor Luatenschlaeger and of his affiants, Professor Bieling has been asked to appear for cross examination by the Prosecution. We received the message that he is ill, but that he can always be interrogated in Marburg where he lives. He is in bed all the time and he is not able to travel, but he can be examined.

THE COMMISSIONER: Very well, the Prosecution will take notice of that announcement.

MR. MINSKOFF: That announcement was also made in open court today.

THE COMMISSIONER: Very well.

DR. FLAECHESTER: (For Buetevisch): Mr. Commissioner, I ask permission to call the witness, attorney Dr. Friedrich Silcher.

FRIEDRICH SILCHER, a witness will stand, raise his right hand and repeat:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: The witness has been sworn.

DIRECT EXAMINATION

BY DR. FLAECHESTER:

Q. Witness, the Prosecution wishes to cross examine you about your affidavit which you made out as Buetevisch Document 306 on 30 June 1947, and which is in Document Book VIII of the Buetevisch volumes.

May I ask you whether you have the document book in front of you?

A. Yes.

Q. Do you have any additional remarks to make about the document or any corrections to make?

A. No.

DR. FLAEBCHNER: The witness is available to the Prosecution.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, in connection with your affidavit, which has been introduced in evidence as Buetevisch Document 306, I'd like to put a few questions to you.

Now, Mr. Witness, you visited Fuerstengrube on several occasions and in your affidavit you report in some detail about the living conditions of the concentration camp inmates who worked there. Now, from your affidavit it seems clear that your impression was favorable since you state that the housing was clean and adequate and there were separate beds for the inmates, and that sort of thing. You also point out that these inmates were in the custody of the SS. Now, Mr. Witness, can you tell the Court whether the foreign workers who were not in the custody of the SS but were taken care of by the Fuerstengrube management directly were treated equally good or better or worse than the concentration camp inmates who worked there?

A. I didn't see anything about that nor did I hear anything about it.

Q. During the visits that you made in Fuerstengrube you never saw any of the foreign workers?

A. No, not consciously; but I think there is a misunderstanding here. It is true that I did have some business frequently with the Fuerstengrube G.m.b.H. but that was with the administration which was in the Fuerstlich Pless'sche Bergwerks A.G. in Kattowitz. The plant of the Fuerstengrube, that is, the mine and the construction site, were some kilometers away from there near the Village Wisola and I was only out there twice, once in the Fall of 1944, and this is what my affidavit refers to, and the other time in the course of the negotiations concerning our participation in the Fuerstengrube. That must have been either the end of 1940 or the beginning of 1941.

Q. Mr. Witness, is it your testimony that the entire five pages of your affidavit relating to conditions at Fuerstengrube are all based on your memory of this one visit in 1944?

A. Yes.

Q. And on this visit you just saw the place where the concentration camp inmates lived but you didn't see at all any of the places where the foreign workers lived?

A. No.

Q. Then you have no idea at all as to whether their conditions were worse or better than that of the concentration camp inmates?

A. No.

MR. MINSKOFF: May I just state for the record that I only a few moments ago had an opportunity to see that there was a new affidavit by

this witness on contracts. The Prosecution does not in any way want to create the impression that there is any fault on the part of Dr. Flaechsenar or the Defense that this document did not come to our attention earlier. It has been introduced some time ago. It is just that in going through the documents the supplemental affidavit, which was a separate document by itself, did not come to my attention and I'd just like to ask one question or two in connection with that, if I may.

BY MR. MINSKOFF:

Q. Mr. Witness, do you recall toward the end of 1944 signing a contract in accordance with which the responsibility for the Fuerstengrube mines was assumed by I.G. Farben and that that responsibility was dated back to the beginning of 1944? Do you recall signing such a contract?

A. I think you mean the so-called Usufruct and Organ Contract; at least the foundation for that was laid during these so-called Dresden conferences in the Spring of 1944. Is that what you mean?

Q. I believe that is the document. Do you recall signing that document?

A. I recall that I drew up this contract and that there was a place for the signature, that it was to be signed; but at the moment I cannot tell you definitely whether it actually was signed.

Q. Mr. Witness, do you recall whether this contract specifically stated that the responsibility for Fuerstengrube as of the beginning of 1944 was assumed by I.G. Farben?

A. I recall that it was provided that the Fuerstengrube was supposed

to be operated for the benefit of Farben as of the beginning of 1944.

That means a contract on the books.

Q. Well, isn't it a fact that the full responsibility was placed directly in the firm I.G. Farben as of the beginning of 1944, formally by this contract; whereas before, Farben was connected with such things as feeding and housing, supplying labor, but there was no formal assumption of responsibility. Now, as an attorney, Mr. Witness, when you worked on this contract, isn't it a fact that this contract was to make that responsibility formal and didn't it so state specifically?

A. No. These are two fields which have nothing to do with each other. This agreement, that as of the first January 1944, the mine was to be operated for the benefit of Farben, this was a purely accounting agreement for the financial side of the enterprise. This was necessary for the following reasons: One of the main points of this contract was that the operational result of the Fuerstengrube was supposed to be put on the accounts of Farben for a number of years. This was to be done because presumably for a number of years, losses would be incurred by the Fuerstengrube. The Pless A.G. could not take these losses because it was in a bad position financially. Farben, on the other hand, was glad to take on these losses because thereby it could decrease its total profits on the books and thus could reduce the taxes. And since the fiscal year of the Fuerstengrube corresponded with the calendar year, this agreement could be made effective only for the entire fiscal year. These so-called "Organ" Contracts were customary on a large scale in combines. In 1943 and 1944, at Farben, I worked on about twenty agreements of this type and I always made them with the stipulation that this taking over of the financial results of the subsidiary firms should be effective as of the beginning of the fiscal year of the subsidiary firm. This whole thing has nothing to do with the question whether, as of this date which had been agreed upon, the actual management and operation of the subsidiary firm was or was not to be conducted by the so-called "Organ matter", that is

Court VI, Case 6 - Commission
10 May 48 - M - 10-4 - LUG - Goldberg (Int Lea)

the other firm which is a party to the contract. During the entire negotiations between Pless, Fuerstengrube and Farben about this Organ Contract, nothing was said about the responsibility for labor allocation.

Q. Mr. Witness, I will get to the labor part in a moment. But on the contract part, isn't it a fact that this question of losses that might be suffered by Fuarstengrube was a fairly academic question, as far as the Pless people were concerned, since Farben had guaranteed, for a 20-year period, a four per cent profit to the other parties in Fuarstengrube, the Pless people? Is that not a fact?

A. Yes, but that was just the significance of the Organ Agreement. Without this Organ Agreement, the situation was like this: Farben would have had to pay this guaranteed dividend of four per cent annually to Pless, and no matter how high the losses of the Fuarstengrube would be, they would be charged to the Fuarstengrube, which only resulted in the Fuarstengrube not having to pay any taxes. But this did not lead to any reduction of the Farben profits, or any reduction in their taxes; the Organ Contract was to accomplish that. The losses would be carried as direct losses of Farben on the books and in the tax assessment.

Q. I think I understand that now, Mr. Witness. In other words, from 1941 on, when the first contract of 8 February 1941 was entered into, Farben, at that time, took over, in fact, the complete risk of the organization, and would suffer any loss that the rest would suffer and would, in addition, guarantee the other partner a constant profit of four per cent for twenty-three years. And then in 1944, the only change that took place, if I understand you correctly, is that, because the losses of Fuarstengrube were until that time, of no use to Farben as a tax loss, so that they went through a formal arrangement so that F_rben could take advantage of the tax loss in the event that Fuarstengrube continued to lose money. But as between the partners, F_rben and Pless, even from 1941'on, there was no question of Pless having any interest at all in how that firm ran or whether it made profits or whether it made losses because it would receive four per cent regularly, for twenty-three years, regardless of what happened to I.G. Farben. Now, Mr. Witness, is that correct?

A. Not quite, Mr. Minskoff. Before the "Organ" Contract, the situation was as follows: Pless would have the certainty of receiving his annual four per cent dividend every year, no matter how the Fuerstengrube did financially. But if the Fuerstengrube had losses in these twenty-three years, they always remained losses of the Fuerstengrube, and it would have been quite imaginable, for example, that during these twenty-three years, the losses would reach such an extent that in this period the entire basic capital of the Fuerstengrube would have been eaten up. Then Pless would have participated in a Fuerstengrube which had no more funds. The "Organ" Contract, on the other hand, was to accomplish that the losses were to be taken over by Farben directly.

Our immediate intention in doing this was that Farben was able to utilize these losses so far as taxes were concerned, but simultaneously, we also accomplished that the capital of the Fuerstengrube, that is, its bank capital was guaranteed and safeguarded, because from now on the Fuerstengrube could incur losses as they pleased. They did not appear on the Fuerstengrube books, for they would be charged to Farben.

Q. Thank you, Mr. Witness. Now, if I understand your testimony correctly, the formulations I made a minute ago should be modified in this respect, that from 1941 on, the Pless partner still had a certain interest, and that was that if the mines were not properly run, and if they had substantial losses, that twenty-three years later the interest of Pless might be impaired, because during the twenty-three years, nothing could impair their interest because Farben guaranteed it. And then after the "Organ" Agreement of which you speak, Pless could suffer no possible loss no matter what Farben did with Fuerstengrube because if, after January 1944, no losses could occur to Fuerstengrube which could even hurt Pless twenty-three years later, because those losses were assumed by I.G. Farben directly. Now, as presently stated, that is correct, is it not?

A. Yes, if one limits the considerations to the purely financial, and then it is completely correct. One always has to distinguish three

things in corporation. The first and most important thing is that it is actually sound in its operation. The second thing is that on the books its bank capital is maintained, and the third thing is that it brings profits.

In the Fuerstengrube the third point was taken care of already by the first agreement for twenty-three years. The second point, that is the guarantee of maintaining the bank capital, was taken care of by the "Organ" Agreement, but there still remained the first point, and one cannot regulate that by any contracts, and there it would have been entirely possible theoretically, that after these twenty years for which this Organ Contract was concluded, there would either be a mine which was worn out, badly operated, and unprofitable, in which Pless would again be a full partner as before, or there would be well-operated mine with up-to-date installations. In this respect, Pless always remained interested in seeing that the Fuerstengrube actually remained a well-operated and a well-managed enterprise.

Q. Now, Mr. Witness, since we have only this one point left, this first point, let me put this question to you. When you say Pless would be interested apart from profits and apart from running down the mine because that would be taken care of by Farben anyway, who was interested generally in having a well-run mine; you don't mean Pless, do you? Isn't it a fact that Pless was already put out of the firm and a trustee was taken into Pless's place, so that actually the only interest you speak of is the Pless Trustee, a German Trustee?

A. No, I meant the Fuerstlich Pless'schen Bergwerks A. G. There was no trustee. It had a normal Vorstand and Aufsichtsrat, according to Corporation law. As far as I know, the capital of the Fuerstlich Pless'schen Bergwerks A.G. belonged to the larger complex of the Fuerstlich Pless'sche property, and there was something about a trustee.

Q. So that the actual Pless interest was no longer owned or controlled by Pless, but by a German Trustee, appointed and acting in its behalf, isn't that a fact?

A. I don't know much about these matters, but as far as we were concerned, our partners were these mins and the people who managed the Fuerstlich Pless'schen Bergwerks A.G. I have to add to this that we always had the impression that it didn't matter at all to these people, as it never matters to any manufacturer who would dispose of the shares of the Fuerstlich Pless'schen Bergwerks A.G., whether this was the Fuerstlich Pless'sche family or a trustee, or anybody else. Those people just looked after their enterprise.

Q. Now, Mr. Witness, may I revert back one moment to the previous affidavit that I mentioned earlier. That is number 306. You described, Mr. Witness, in detail, the living quarters of the inmates, and you pointed out in your affidavit that these beds in which inmates slept had sheets, had bad sheets. Isn't that correct? In your affidavit you state that?

A. Yes, I just see it on page 104.

Q. Now, as a matter of fact, Mr. Witness, isn't it true that the inmates did not have bed sheets, but slept on straw sacks without any sheets whatsoever?

A. I said in this passage, "If I remember this correctly, etc."

Q. Now, Mr. Witness, just to refresh your recollection, may I show you NI-15244, which is offered as Prosecution exhibit 2350. May I call your attention in that document to the order of necessary articles which was needed to take care of 500 inmates, and I ask you to read those aloud, Mr. Witness?

A. "Equipment which must be ready: 1. kitchen and pantry; 2. accommodations for 35 guards with bed linen and blankets; 3. accommodations for 500 inmates, beds, straw sacks, pillows and blankets."

That, I think, will suffice.

"500 dishes" do you want me to read that too?

Q. No. Now, when you see that straw sacks provided, does that refresh your recollection as to whether they were straw sacks or sheets you saw on the beds of the inmates?

A. I remember things the way I described them in my affidavit. But, throughout the years of the war, before and during the war, I saw many kinds of camps and barracks, and there were some which had linen and I remember other beds which had no sheets; and I recall that the beds in the work camp Fuerstengrube had blue-checked linen covers. But I cannot say with full certainty that I do not confuse my memory of this camp with that of another camp I might have seen. That's why I said in my affidavit, "If I remember correctly."

MR. MINSKOFF: Thank you very much, Mr. Witness.

No further questions from the Prosecution.

REDIRECT EXAMINATION

BY DR. FLA ECHSNER (for Bueteifisch):

Q. Dr. Silcher, just one question. Did you have decisive influence on the text and wording of the "Organ" Agreement discussed before?

A. Yes, the text essentially was written by me.

Q. Was this contract intended to change anything about the actual management, such as the plant management itself, the technical management of the mine, etc., etc. -- as it existed therefor?

A. No. At any rate, this was not specifically intended for some time.

Q. Last question. Was the contract concluded in a legal manner?

A. I do not know exactly anymore, as I said before.

DR. FLAECHSNER: Thank you. No further questions.

RECROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, I show you NI-15128, which is a photostatic copy of this Organ Agreement, so-called, and ask you whether looking at this, you recall now whether you personally signed this contract?

A. I don't remember that, but it is quite possible.

Q. Doesn't your name appear there?

A. Yes, but this is not my signature. This is not the original.

Q. Well, Mr. Witness, when two parties sign a contract, didn't

you sign the copy which he had and didn't he sign the copy which you have? This is your copy with his signature on it; it says, "Signed: Falkenhahn", does it not?

A. I don't think so. In these cases it was customary to make two copies, that is, two copies with original signatures, so that both parties had one copy each with both original signatures, and this is not it.

Q. Now, the copy which you have before you, the other party has already signed it, hasn't he?

A. No, but it says, "Signed: Falkenhahn".

Q. Isn't there a signature there?

A. Yes, it was written by hand, but not in Falkenhahn's handwriting, if I remember his writing correctly, it clearly says: "Signed: Falkenhahn".

Q. What do the words, "Signed: Falkenhahn" mean to you? They mean that it was not signed?

A. No, it means, normally speaking, that this is a copy and, "Signed: Falkenhahn" means that the original is made out over the original signature, "Falkenhahn."

Q. Well, that's precisely what I mean. This document which is merely a copy taken from the Farben files and Fuerstengrube files states that the signature, Silcher, is there, and states that the signature, Falkenhahn is there. This is just a form copy. Now what does the word "sign" mean if it doesn't mean signed?

A. Of course, Mr. Minskoff, if the copy is absolutely correct, then it shows that the contract was signed by both parties, and signed by Falkenhahn for the Fuerstengrube; but I do not know at the moment whether this is a correct copy in that respect, because I do not remember positively whether the contract actually was signed or not. I assume so on the basis of this copy, but I do not know.

MR. MINSKOFF: Thank you, no further questions.

THE COMMISSIONER: Does the Defense have any further questions?

Court VI, Case 6 - Commission
10 May 48 - M - 11,12-8 - LJC - (Ramlar, Lea)

MR. MINSKOFF: I might mention that we might identify it for the record. We identify it Prosecution exhibit 2351.

THE COMMISSIONER: If there are no further questions, the witness may be excused.

The Commission will be in recess until 1:30.

(The Commission recessed until 1:30.)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" " "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savolsberg	14387-14424
11 May 1948	Karl Runscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494

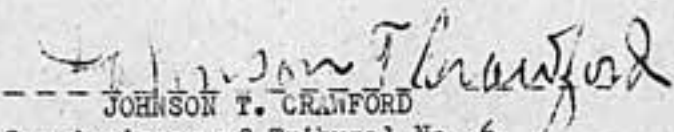
During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	FS 2353 C	10899
2303	L79	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11468
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

AFTERNOON SESSION

(The hearing reconvened at 1330 hours)

THE MARSHAL: The Commission is again in session.

DR. SEIDL: Dr. Seidl for Dr. Duerrfeld. Mr. Commissioner, the next witness at our disposal is the witness, Fritz Hirsch. With the permission of the Commissioner, I would like to call that witness now.

COMMISSIONER: The marshal will call the witness. The witness will raise his right hand and repeat after me, "I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing."

(The witness repeated the oath.)

Commissioner: All right, the witness will be seated.

MR. MINSKOFF: I would like the record to show, Mr. Commissioner, that this witness appeared before the Tribunal and was sworn in and testified there in direct examination. He is now to be heard on cross examination by the prosecution.

COMMISSIONER: The record will so indicate.

DR. SEIDL: Mr. Commissioner, the statement by the prosecutor is correct. We do not submit any affidavit by this witness. The witness was heard before Tribunal Number VI himself. The transcript about the examination before Tribunal Number VI is in the record about the session of 20 April of this year.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q Mr. Witness, I would like to put a few questions in connection



with your background that will elaborate on the testimony which you gave before the Tribunal. Mr. Witness, were you a member of the Nazi Party, or were you not since 1930?

A No.

Q When did you first join the Party?

A I joined the Party, according to a document on 1 April 1931.

Q And when did you join the SA?

A I cannot say that exactly. At any rate, either at the same time or a few months later.

Q And when did you join the SS?

A I did not join the SS.

Q You are certain of that?

A Yes.

Q Mr. Witness, did you ever testify before that you were a member of the SS?

A No. I never testified to that effect, but they wanted to transfer us to the SS from the SA, but this never actually came about.

Q Now, Mr. Witness, when you were convicted in 1941, do you recall whether at that time and in that hearing you testified that in 1932 you joined the SS?

A It is possible that during that interrogation I testified that I joined the SS in order to exonerate myself.

Q And do you recall whether at that time you also testified that it was 1930 when you joined the NSDAP and not 1931?

A According to the Document Center, it has been found that I joined the NSDAP on 1 April 1931. There is no doubt about it.

Q Mr. Witness, you misunderstood the question. This last question didn't ask when you joined, the question was, did you testify at the hearing in 1941 when you were convicted under oath that you joined the party in 1930?

A It is possible that I testified in that manner in order to exonerate myself. At any rate, I joined at the date I mentioned.

Q You testified that way in order to exonerate yourself even though you knew that you were testifying falsely under oath, is that your testimony?

A This matter occurred more than 15 years ago, and therefore I cannot remember it so well.

Q Now, Mr. Witness, I am speaking about 1941, and certainly in 1941 you remembered better what happened in 1940 than you remember now in 1948.

A What you say is correct, but after the time of 1940 I was in a concentration camp for three and a half years and I think you will understand that these comparatively irrelevant matters have not remained in my memory so well.

Q Now, Mr. Witness, isn't it a fact that you were thrown out of the NSDAP in 1932?

A Yes.

Q And Mr. Witness, isn't it also a fact that in 1933 you tried to re-enter the Party, but were not accepted?

A In 1932, it was suggested to me that I should join the Party somewhere else what I rejected. The attempt to rejoin the Party I might have possibly made in order to avoid trouble for myself.

Q And that was after you were thrown out about in 1933, do you recall that?

A That might have been shortly after this business, and this is almost 16 years ago now.

Q Now, Mr. Witness, you know who Rudolf Hess is, don't you? Do you name the name "Rudolf Hess"?

A Yes, I do.

Q Did you ever go with Rudolf Hess on a trip to Greece after you were thrown out of the Party?

A No. I have never seen Rudolf Hess in my life, as far as I can

remember.

Q Mr. Witness, did you ever state that you went with Rudolf Hess — did you ever state that you went with Rudolf Hess on a trip to Greece?

A No. I don't think I ever testified to that effect.

Q I didn't say "testified", I said did you ever tell anyone that you and Rudolf Hess went to Greece together?

A I believe that is a malicious invention. I never testified to that effect, and anyone would have thought I was crazy if I had said something like that.

Q Now, Mr. Witness, in 1934 did you organize a Hitler Youth group in Erding?

A No. In 1934 I did not organize any Hitler Youth group, that was in the year 1932.

Q It didn't come through clearly.

INTERPRETER: Correction '32.

DR. SEIDL: Seidl for Duerrfeld. I believe there has been a mistake in translation, and I would like the prosecution to repeat the last question.

COMMISSIONER: Repeat it and state the correction.

MR. MINSKOFF: I will gladly repeat it, and I would ask the witness to think very carefully before he answers it and remember he is under oath.
BY MR. MINSKOFF:

Q Now, the question is, did you in 1934 -- not in 1932 -- in 1934 after you returned from Rome organize a Hitler Youth group in Erding?

A Yes. After I returned from Rome at the suggestion of a friend I assisted in organizing a Hitler Youth group in organizing their spare-time

activities.

Q Now, Mr. Witness, when you were at Auschwitz, you were somewhat different from the other prisoners, were you not, in that, for example, you were permitted to keep your hair when all the others were shaved, isn't that true?

A In 1944 during a visit of the Commandant Schwarz in the camp Hohentochlowitz, I talked to him when I noticed that he was drunk and I asked him to grant me, like many other inmates, the permission to let my hair grow. The reason I gave was that many foreign inmates, Poles in particular, were allowed to grow their hair, but I had in mind to be able to escape better. Some day I was given permission to do so.

Q That was a rather rare privilege in Auschwitz, wasn't it, to be permitted to keep your hair?

A The advantage consisted of the fact that one had no privileges owing to this, and I was threatened several times that I should be shaved again. I needed my long hair to enable me to escape better. This did not mean any privileges. The first people who were allowed to wear their long hair were Poles, as far as I know.

Q Mr. Witness, is it possible that you received this privilege because of your cooperation with the SS, even while you were in the concentration camp?

A Hauptsturmbannfuhrer Schwarz, the commandant of the camp, did not know me personally. I made use of the fact that he was a Bavarian, and I talked to him in a Bavarian dialect, and he felt sympathetic towards me. In the kind of mood he was, being drunk, he permitted my request

immediately. There was no reason for this. I can recall this case exactly. The then camp commandant, was Oberscharfuhrer Remmele, and when I approached him, whether I could get that permission, he said he had to ask the camp commandant first. When he asked him with the words, "How does Hirsch conduct himself," he said verbally, "I cannot say much about him, but he is fresh." Schwarz replied, "The people who come from where I come from, are all fresh."

Q Mr. Witness, the SS people only liked you because you were fresh, is that right? Now, let me ask you this, after you were no longer in the concentration camp, do you recall, as recently as January 1948, hiding an SS man in your apartment -- a man named Sepp Spanner?

A Yes.

Q Now, in other words, the SS friendship was more than because you were just fresh.

A May I comment on this?

Q Comment, No. If there is anything which you wish to add to an answer which is before you, you may add to that answer.

A I did not hide any SS man called Sepp Spanner in my apartment. Sepp Spanner is an SS man whom nearly every inmate in Auschwitz knows and whom they respect.

Q Mr. Witness, I am not asking you for a character reference on Sepp Spanner.

DR. SEIDL: Seidl for Dr. Duerrfeld. Mr. Commissioner, the prosecution asked this witness whether he hid an SS man in his apartment.

The witness testified about this, but I consider it only fair to enable the witness to explain the reasons why he hid this man in his apartment.

MR. MINSKOFF: Mr. Commissioner, why he hides an SS man in his apartment during the year 1948 is not relevant to the proceedings before this court, but the fact that he has hidden one casts a reflection upon the witness which the court should know.

COMMISSIONER: He should be allowed to give any explanation that he has for that, like if you ask a man if he killed some people. If he said "Yes", and if he did it in self defense, then he should be allowed to explain that, and he did not make an explanation.

MR. MINSKOFF: I thought he had when he said that he was a very fine man, but I am perfectly willing to hear anything further that he wants to say.

THE WITNESS: May I speak? SS Sopp Spanner from the first to the last day was in the concentration camp Auschwitz. During that time he helped thousands of inmates and millions of times he risked his life. There isn't one inmate and there isn't one human being that could say anything bad about him, but only good things. It was my duty as a human being to take care of this man and to look after him when he was persecuted by the Russian NKRD in the Russian Zone of Austria and escaped to Germany to me. He was not hidden in my apartment. It is untrue if one says that. This man was registered by me immediately and from that time onwards he visited nearly all the inmates he knew, Jews as well as Germans, and asked to testify who he had been in the concentration camp Auschwitz and what the inmates had thought about him. That I am reproached for this here, is at least incorrect and not justified.

BY MR. MINSKOFF:

Q. Now, Mr. Witness, you say he escaped from the Russians. Isn't it possible that was an American camp he escaped from?

A. No. I immediately contacted the CIC and reported the matter. A CIC officer, called Reinhold, interrogated Spanner subsequently, and took his documents because of personal interest. He himself was sent to a refugee camp by me and he visited me from there occasionally. The Americans know this case perfectly well and I repeat again, no matter what they say

about me, but if anyone says that this man was an SS man, this is not justified. There isn't one human being among those present here who has done so much for the unfortunate victims for the concentration camp than he has. I, and anyone else who know him, respect him, even now.

Q: This SS man Spanner, he was in the concentration camp Birkenau too, wasn't he?

A: Yes.

Q: And that is where you know him as an SS man, isn't that right?

A: Of course.

Q: Now, Mr. Witness, you know a Mr. Nestler, do you not?

A: I didn't understand the name very well.

Q: You know a man named Nestler, N-E-S-T-L-E-R?

A: Yes.

DR. SEIDL: I don't want to object to this question, but I would like to state for the record here that this Nestler testified before Tribunal VI as a witness. When the witness Hirsch was questioned at the time, I asked him a question concerning this witness Nestler, and at the time the prosecution objected to this: that I asked the witness Hirsch, a question concerning the witness Nestler. I would now like to ask the prosecution why they suddenly wish to change their tactics and I would like to have this reply in order to raise an objection against this question, if necessary.

MR. MINSKOFF: Dr. Seidl the prosecution has no intention whatever of asking this witness about the character or reputation of Mr. Nestler, and it was that kind of testimony the prosecution objected to before the

main tribunal. The prosecution now asks this witness a different type of question entirely. The prosecution merely wants to know whether it is not a fact that this witness, Mr. Hirsch, together with Nestler procured the affidavits of the other inmates such as Taub, Lohenbrann, Waschmann, Schulmann, and others, to get affidavits to bring to this case.

DR. SEIDL: I object to that question. This question is not at all connected to the testimony of this witness before the Military Tribunal VI. It has no connection with any attempt to impeach the credibility of this witness. I don't see any reasonable reason for justifying this question, and I personally assume that the witnesses of the prosecution also knew about the affidavits which other witnesses had given for them. If the prosecution goes so far as to talk about other inmates as well, I would like to point out now that the camp senior in Monowitz, is in this courthouse; that the witness Schulhoff is today in this courthouse too, and that they were called by the prosecution.

MR. MINSKOFF: Mr. Commissioner, I'd like to state for the record that every affidavit which the prosecution has introduced in this case was obtained directly by the prosecution and that no affidavits were obtained by any other inmates from their fellow inmates. But even were that so, that would have no bearing if persons brought them in voluntarily. My question here is directed as to whether this man is employed by the defense and if he is employed by the defense, that might have some bearing on his testimony.

DR. SEIDL: Who obtained the affidavits of the defense can be seen

from the affidavit itself. On the whole, the signatures under those affidavits are certified before a notary public. A notary public notarized the signature under this affidavit as well.

MR. MINSKOFF: If Dr. Seidl wants to stipulate that this witness is an employee of the defense, there is no objection at all upon the part of the prosecution, and that will end that entire inquiry.

DR. SEIDL: This witness is not an employee of the defense, but it is the nature of the matter that the inmates all know each other. Nothing is more natural than that an inmate who makes an affidavit for the defense is asked by the defense whether he knows any comrades from the camp Monowitz with whom he has contact, and I want to assume that the prosecution got their affidavits in the same manner and that is why I object to this question all the more — because it does not show any relevancy with the direct testimony of this witness and it does not show why it has anything to do with the credibility of the witness' testimony.

MR. MINSKOFF: There is only one —

THE COMMISSIONER: We can't let this develop into two lawyers testifying, so we will have to discontinue it. I want you to state your objections in the record and since I can't rule on the objections, just state your objections in the record briefly, and of course make it as full as you think necessary, and then we will go on with the question and the Tribunal will have to rule on that relevancy. So you may proceed with the examination.

BY MR. MINSKOFF:

Q. Mr. Witness, do you recall while in the presence of a Mr. Taub who testified here in this court, that you received saccharin from a person connected with the defense?

MR. SEIDL: I object to that question. It is quite irrelevant concerning the testimony of this witness before this Tribunal. It does not show anything about the credibility of this witness either, and I would like to add that it would have been as easy to put similar questions to the witnesses of the prosecution, and we could have asked the witnesses of the prosecution whether they got any CARE packages after making their testimony here.

THE COMMISSIONER: The objection is in the record, so you may proceed.

MR. MINSKOFF: That question could well have been asked and he would have been unhappy with the answer he received. The only question before this Court is important because there is a big distinction between asking your comrades for making affidavits and receiving payments for getting those affidavits. But I won't press the question. There are no further questions.

REDIRECT EXAMINATION

BY MR. SEIDL:

Q. Witness, you testified that in the year 1931 on the first of April you joined the NSDAP, and I would like to ask you, what was your attitude towards National Socialism in the later years, that is '35, '36, '38 and '40?

A. My attitude developed because of my literary inquiries. When I was 17 years old, I was an enthusiastic National Socialist, but eventually I got interested in scientific literature. I read philosophical works, biological works, and most of all, sociological reports. During my investigations, I noticed more and more that National Socialism was nothing like what it pretended to be. If one looks up my matter closely, and I think this probably has been done sufficiently one can see how I eventually reached this conclusion. My opposition developed further until it got to that extent that those people heard my statements who rightly objected to this. In 1937, the Gestapo arrested me for the first time and only by a mere coincidence was I able to get away once more. When I was threatened to be arrested again, I managed to escape at the last moment, and to go to Roumania.

Q. You also testified that in 1941 you were arrested again.

A. Yes.

Q. When were you sent to the concentration camp for the first time?

A. I came to the concentration camp Auschwitz on 29 December 1941 -- or it was the first of January 1941.

Q. In the concentration camp Auschwitz, and later in Monowitz, did you have a red triangle or a green triangle?

A. As a political prisoner in the concentration camp, I only wore a red triangle.

Q. No further questions to the witness, Mr. Commissioner.

RECROSS EXAMINATION

BY MR. MINSKOFF:

10 May 48 A-5W-157-Gaylord (Juelich)
Court 6, Case 6 - Commission

Q. Mr. Witness, do you have your inmate number tattooed on your arm?

A. No, I do not have the number tattooed on my arm because the German inmates did not have to suffer this procedure.

Q. Thank you.

THE COMMISSIONER: The witness may be excused.

(The witness is excused.)

DR. SEIDL: Mr. Commissioner, with the permission of the Commissioner, I would like to call as the next witness, Ernst Kraschewski.

THE COMMISSIONER: The marshal will call the witness.

DR. SEIDL: Mr. Commissioner, it may take a moment until the witness comes. I believe it will take only a few minutes.

THE COMMISSIONER: All right. We will take a few minutes recess to wait for the witness. We will be in recess for a few minutes while we wait.

(A recess was taken.)

THE MARSHAL: The Commission is again in session.

DR. SEIDL: The witness Ernst Kraschewski has now entered the room and he is at your disposal to be sworn in.

THE COMMISSIONER: The Marshal will prepare the witness.

ERNST KRASCHEWSKI, a witness, took the stand and testified as follows:

THE COMMISSIONER: The witness will raise his right hand and repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: You may be seated.

DIRECT EXAMINATION

BY DR. SEIDL:

Q. The defense has submitted an affidavit about this witness. It is contained in Volume XIX for Dr. Duerrfeld. The affidavit is contained on Page 1 of this volume. It bears the number 1422. The document

was submitted as Duerrfeld Exhibit 394. Witness, on 1 March 1948 you made an affidavit for the defense, and I would like to ask you whether you made the statements in this affidavit voluntarily.

A. Yes, I did.

Q. And I would like to ask you whether you also signed it voluntarily?

A. Yes.

Q. I would like also to ask you whether you wish to add anything or change anything in this affidavit; in particular, in connection with your political past and about the reasons which caused you to be sent to the concentration camp.

A. I would like to say that I was a political prisoner but during the entire time I wore the green-triangle, the so-called S.V. triangle, with the angle at the top. I was convicted for war crimes after my release from the concentration camp Sachsenhausen, by a special court.

Q. When did this procedure take place, before the special court, Mr. Kraschowski?

A. In April 1940.

Q. And what were you charged with during that process?

A. War crimes: distributing enemy information and enemy intelligence and undermining military strength.

Q. It was a German court which charged you and convicted you?

A. Yes.

Q. Do you wish to add anything further to your affidavit?

A. No.

Q. All other statements are complete and correct?

A. Yes.

Q. No further questions to the witness.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, you state that the reason you were arrested in 1939, was because of your political unreliability and you mentioned just a few moments ago that your difficulties in 1940 again were a sort of a political nature since they gave secrets of the government away. Now, Mr. Witness, would you explain to the court just what the significance of the green triangle was in the concentration camp.

A. The green triangle was worn by criminals.

Q. And you had a green triangle, isn't that right?

A. Yes, I had.

Q. Now, isn't it true that the political prisoners had a red triangle?

A. That is correct.

Q. But even though you were arrested for political unreliability, you nevertheless received a green triangle?

A. Please repeat that.

Q. Even though you say you were arrested for political reasons you nevertheless received the green triangle of the criminals?

A. Yes.

Q. Now, Mr. Witness, when was the first time you were ever convicted of a crime?

A. In 1939.

Q. That was the time for political unreliability, isn't that right?

A. Yes.

Q. And before 1939 you were never previously convicted of any crime?
Is that your testimony?

A. Yes.

Q. Now, Mr. Witness, now please think hard before you answer this question. Do you recall on the 28 of April 1936 being convicted of theft and embezzlement? Did you hear the question, Mr. Witness?

A. Yes, I did.

Q. Now, I'd like your answer. Do you recall on the 28 of April 1936 being convicted of theft and embezzlement?

A. Yes.

Q. Now, Mr. Witness, why did you tell this Court just a few minutes ago that the first time you were convicted was in 1939, and when I asked you if you were sure you said you were sure.

DR. SEIDL: I object to the question. That kind of question was addressed neither to the witness nor has that witness ever given such an answer yet.

MR. MINSKOFF: Mr. Commissioner, I asked this witness twice whether he was ever convicted of a crime before 1939 and he answered, and the record may show otherwise, if it does show otherwise, that he was never convicted of a crime before 1939. And just so the witness wouldn't make any mistake, I repeated it: Isn't it true that the '39 offense was the political offense, and I asked him again whether then he was ever convicted

of a crime and his answer was not, and now the witness had admitted that in 1936 he was convicted of theft and embezzlement. Now I am asking this witness, will he explain why he gave a false answer to the Court the first time.

BY MR. MINSKOFF:

Q. Mr. Witness, can you explain why you gave a false answer to the Court the first time?

DR. SEIDL: I must repeat my objection. The witness was not asked whether before 1939 or '40 he had been punished for any crime. He was asked this neither by me nor did he make any such statement on his own. I did not hear anything in the translation that the prosecution asked him this; at any rate, in the German text unless I am very much mistaken, no such question can be found.

MR. MINSKOFF: If Dr. Seidl would listen to what goes on here he wouldn't make objections to the Court in the record at this time and waste time. I am sure the record will show quite clearly what the questions and answers were.

THE COMMISSIONER: Very well. The record will show that. Proceed.

BY MR. MINSKOFF:

Q. Now, Mr. Witness, outside of this time you were convicted in 1936 of fraud and embezzlement, were you ever convicted at any other time of a crime which you haven't told us about yet?

A. No; only before the Special Court.

Q. Only in 1936?

A. Yes.

Q. Now, just so that Dr. Seidl doesn't miss this question: Are you sure that other than in 1936 you were never convicted of any other crime that you haven't told us in this court?

A. I was convicted for the second time before the Special Tribunal.

Q. Now, Mr. Witness, let's get this clear. In 1936 you have admitted you were convicted of fraud and embezzlement. Now I am asking you, apart from 1936, were you ever convicted of any other crime, other than those mentioned in this court?

DR. SEIDL: I must object to that question. The witness has already admitted that he was convicted once more, only he cannot remember the date exactly. He admitted that he was punished because of undermining the military force and because of other crimes. It has been established by the record already that he has been convicted at least twice and he has admitted that.

MR. MINSKOFF: If Dr. Seidl would only listen to the questions we could save a lot of time in this Commission. I said apart from those crimes which he has told — Dr. Seidl, if you will please listen to the questions we can save time. The question I put to this witness was, that apart from any crimes he's told this Court about so far, and that includes the political crimes and the one crime he has now admitted in 1936, was he ever on any other occasion convicted of a crime?

BY MR. MINSKOFF:

Q. Now, can you answer that question, Mr. Witness?

A. I was convicted on two occasions.

Q. Now, will you tell the Court what you were condemned for and on what occasions?

A. I didn't understand the question.

Q. You said two occasions. Now, will you explain what those two occasions were and what you were convicted of?

A. The first occasion you mentioned yourself and the second occasion was after my release from Sachsenhausen when this special court condemned me.

Q. When was that, approximately?

A. December 1939.

Q. Now, Mr. Witness, between December 1939 and April 1936 were you ever convicted of a different crime?

A. No.

Q. Mr. Witness, now think carefully. Do you recall on the 8th of April 1938 being convicted of fraud and embezzlement in Schoeneberg, Berlin?

A. Yes.

Q. Now, Mr. Witness, in 1936 you were convicted of fraud and embezzlement which you didn't tell the Court about and in 1938 you were convicted of fraud and embezzlement which you didn't tell the Court about. Now, are there any other crimes that you haven't yet told the Court about that you were convicted of?

A. No.

Q. Now, Mr. Witness, on the 29th of November 1939 when you were convicted, what was the charge against you?

A. War crimes.

Q. Now, do you recall that on 29 November 1939, because of nine cases of fraud -- do you hear that: Nine cases of fraud -- falsification of documents and embezzlement, you were convicted to ten years of hard labor as well as loss of honor and security arrest? Do you recall that now?

A. Yes, and since I assume that you know everything you will know why I was condemned for fraud on nine occasions. I had escaped from the working service with an official vehicle and during my escape I stayed at various places under the wrong name and those were called cases of fraud and they were called war crimes.

MR. MINSKOFF: Thank you very much, Mr. Witness. No further questions.

REDIRECT EXAMINATION

BY DR. SEIDL:

Q. Witness, in 1936 you were condemned first because of theft and you admitted that here. How much did you get at the time, do you remember? What was the punishment?

A. Three months on probation but I am not certain.

Q. Didn't you have to serve those three months?

A. No.

Q. In 1938 you were condemned for a second time. What was the punishment you got the second time?

A. About one year, if one adds those three months.

Q. In 1939 the Special Court convicted you. This was already after the outbreak of the war?

A. Yes.

Q. Were you convicted so severely because your crime was considered to be an undermining of the defensive strength?

A. I was one of the first cases before the Special Court. The president pointed out that examples had to be made and recited all the cases which were included in my action when I escaped from the labor service. He listed all those as separate crimes and I was convicted of war crimes as a young person because of those crimes.

Q. At the time you belonged to the German Reich Labor Service; is that correct?

A. Yes.

Q. And as far as you remember that was the reason why they talked about war crimes here?

A. Yes.

DR. SEIDL: No further questions to the witness.

RE-CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, just answer one question: Will you tell the Court why, when you made this affidavit which was introduced into evidence, you did not include the other convictions against you for fraud and embezzlement in 1936, 1938 and 1939?

A. I was not asked about this.

DR. SEIDL: I object to the question. First of all, nothing is contained in the affidavit about the fact that any conviction of this witness was mentioned; secondly, the following must be said: The convictions which occurred in 1936 and 1938 have probably been crossed out of the criminal record. Therefore, probably according to German law, this witness is justified in refusing to testify about these preliminary convictions. According to German law, if the criminal record is crossed out, the person condemned can say that he has not been convicted before. The former preliminary convictions will only be reported if the authority inquiring about them is a so-called Higher Reich Authority. Naturally, the American Agencies and any agencies of the Occupying Power, have the same power as those highest German Reich Authorities now.

MR. MINSKOFF: Just so we have one thing clear --

BY MR. MINSKOFF:

Q. Mr. Witness, these crimes that I referred to in 1936 and in 1938 for which you were punished, I believe, for several months the first time and about nine months or so the second time, these crimes had nothing whatever to do with politics; they were fraud and embezzlement, were they not?

A. The crimes fraud and embezzlement occurred on the occasion when I escaped.

Q. I am not speaking of 1939. I was speaking of 1936 and 1938, before the war.

A. They are not political crimes.

MR. MINSKOFF: Thank you very much.

THE COMMISSIONER: The witness is excused.

(Witness excused)

THE COMMISSIONER: Have we other witnesses?

DR. SEIDL: We have another witness at our disposal, Mr. Commissioner, but this witness is sick at the moment and is in the witnesses' house near here. The competent physician declared this witness sick, and he said he was fit to be interrogated. The question is now whether the Commission should go to the witnesses' house, nearby, which is next to the courthouse in order to interrogate the witness there. This is the witness Dr. Savelsberg.

MR. MINSKOFF: Is it possible to put another witness on, like Mr. Fuerstenberg or one of the others?

THE COMMISSIONER: Well, we will take a recess for about 20 minutes and see what witness you want to call. The Commission will be in recess for 20 or 30 minutes.

(A recess was taken.)

(The hearing reconvened at 1530 hours, 10 May 1948.)

THE MARSHAL: The Commission is again in session.

DR. SEIDL: Seidl for Duerrfeld. Mr. Commissioner, with your permission, I would like to ask that the witness Franz Fuerstenberg be called into the witness stand.

COMMISSIONER: The marshal will call the witness. The witness will raise his right hand and repeat after me, "I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

COMMISSIONER: You will be seated.

DIRECT EXAMINATION

BY DR. SEIDL:

Q Witness, would you please state your full name for the record again and the date of your birth?

A I am the businessman Franz Fuerstenberg, born on 27 March 1902.

Q Mr. Commissioner, the affidavit executed by this witness is in Document Volume Number IV for Dr. Walter Duerrfeld. It is on page 54 of this document book. The number of the document is Duerrfeld Number 884. The affidavit was submitted as Exhibit Duerrfeld Number 77.

Q Witness, you executed an affidavit for the defense which you signed on the 10th of February 1948. I would like to ask you, were the statements contained in the affidavit made by you voluntarily?

A The statements were made by me voluntarily.

Q Did you sign this affidavit voluntarily?

A I signed the affidavit voluntarily.

Q Witness, did you not, in 1947, already give an affidavit to the defense which deals with the same subject matter, namely, the living conditions in the Monowitz camp and the working conditions in the Auschwitz I.G. Farben plant?

A Yes. On the 30th of June 1947 I executed that particular affidavit.

Q I have this affidavit in front of me. It is the same affidavit which the notary in Goslar authorized, is that correct?

A Yes, it is.

Q Does this affidavit differ substantially from the affidavit which we introduced as Duerrfeld Exhibit Number 77 and submitted to the Tribunal, and which you signed on 10 February 1948?

A There is no substantial difference. There was merely one sentence which was changed. It concerned my escape abroad. There it might give the impression that I escaped from the camp. That is incorrect. I was released from there and then emigrated abroad.

MR. MINSKOFF: I think there will be some confusion if we refer to a document which is neither in evidence nor has been identified. I would suggest that it would help the record by at least identifying the document, even if we don't put it in evidence, so that we will have a clear reference to a document which is in evidence and a second document which is at least identified.

DR. SEIDL: Mr. Commissioner, I don't think it is necessary to

identify this document specifically. I have no further questions to the witness concerning this affidavit. On the other hand, to supplement your affidavit of 10 February 1948, I would like to ask you a few questions concerning your personal situation because this is treated rather briefly in the affidavit. First of all, I would like to ask you, are you a member of the Association of the Persecutees of National Socialism, the so-called "VVN", to which all inmates belong who were persecuted by the Nazis for political reasons or racial reasons and were sent to concentration camps.

THE WITNESS: No. Until two weeks ago I still had my membership card, then I had to surrender it.

BY DR. SEIDL:

Q I shall ask you about that later on. I would only like to ask you about your membership, and is it correct that you still are a member?

A I have not been excluded so far. I am to appear there again.

Q In your affidavit you state that in March 1933, because of your membership in the German League for Human Rights, you were arrested?

A Yes.

Q I would now like to ask you, when did you first have something to do with this League of Human Rights which was a pacifist movement?

A In 1920, after I served in the forces. I was in the Baltic countries until 1920.

Q In the course of the following years, was a proceeding initiated against you for betraying military secrets?

A Yes, in 1925.

Q What were the details in this case?

A This concerned information which I allegedly gave to pacifists, but it was found eventually that they belonged to the French intelligence.

Q Does this concern the Panzerkreuzer A, B, or C?

A Yes, it concerns the Panzerkreuzer A, B C, and D.

Q Did you know then that the French intelligence was behind this pacifist movement in Germany?

A No, I did not know that at the time. I only found that out during the preliminary investigation.

Q Before which court were these proceedings carried on?

A In the Kammergericht in Berlin.

Q Why wasn't it carried on in the Reich Supreme Court which usually handled those cases?

A The prosecution did ask that this be taken to the Reich Supreme Court, Ebermeyer was the man in charge at the time, but because it wasn't taken quite so seriously it was transferred to the Kammergericht. The treason in this case had not actually been accomplished.

Q Witness, I asked you yesterday whether apart from this one conviction for betraying military secrets which the VVN recognizes as an action which justifies your membership, you have been convicted of anything else? You answered that a proceeding was started because of perjury and for making an untrue statement. Would you please tell the Tribunal briefly what the substance of these charges was and what result this

proceeding had?

A At the time I tried to protect people, a fraud maneuver was developed and in this connection I made out an affidavit; as a result I was sworn in and afterwards I was punished for perjury and for making incorrect statements in an affidavit. I got one year in the penitentiary for perjury and three months in prison for making incorrect statements in an affidavit, and three or four months because I tried to commit fraud.

Q In view of the fact that the prosecution considers it important, when cross examining anyone, to mention all previous convictions, I would like to ask you whether apart from these proceedings you were convicted in 1925 on something else?

A No, nothing in connection with 1925. There was something else in 1933. I got 7 months prison because of an attempt to commit fraud.

Q Have you been convicted for anything else by a court?

A No.

Q After your release from the camp Esterwegen when were you arrested again by the Gestapo?

A In 1937.

Q Were you abroad before that?

A From 1935 until 1937.

Q Why did you return to Germany in 1937?

A At the time my mother was sick and I was in Paris. At the request of my brothers and sisters, I secretly returned to Germany in order to see my mother. In Saarbruecken I was arrested. I was with the Gestapo

for 8 weeks and was again sent to the concentration camp.

Q Witness, originally it was our intention not to submit your affidavit, but to hear you before Tribunal VI itself. We, therefore, moved that you be called as witness before this Tribunal to be able to testify there. This motion was approved and as a result the Secretary General for these military tribunals sent you a telegram which informed you of the fact that you were to testify in Nuernberg on the 13th of April, 1948.

A Yes, I received the telegram.

Q You replied that you had received the telegram, is that correct?

A Yes.

Q Was this on the 12th of April?

A No. That must have been already on the 11th— on the 10th or the 11th.

Q Witness, another telegram was received by the Lt. Charles Pace from the defense information center. I have this telegram in my hands in front of me, and I quote the telegram now. "I do not wish to testify for the defense, I want to withdraw my affidavit", signed "Franz Fuerstenberg".

A That is correct, I wrote that telegram after I had talked to friends previously.

Q I beg your pardon, witness, if I interrupt you. I haven't asked you any questions yet. I want to ask you this: after signing your affidavit or during March or April did anybody from the VVN approach you and ask you about the contents of your affidavit?

A I was not asked about the contents of the affidavit, but only whether I intended to testify as witness for the defense here.

Q Who asked you about this?

A A man from Finenburg. His name was Poeschl.

Q Is this Poeschl also a member of the VVN?

A Yes.

Q What did this man, Poeschl, tell you?

A Whether I really wanted to go there. Surely I knew from the journal of the VVN that they did not like to see any one testify on behalf of defendants in denazification or major trials.

Q. Was it also indicated to you what might possibly happen to you if you still testified as a witness?

A. I was told that I could expect to be expelled from the VVN; apart from that, there were certain groups or sections of the VVN who had published this fact.

Q. Apart from Poeschl, was anybody else present during that discussion?

A. No, not during that discussion.

Q. Did any other discussion take place later on where apart from Poeschl anyone else was present?

A. Yes.

Q. When was that?

A. That was on the 11th in Goslar.

Q. In what office was it?

A. It was in the private apartment of a Herr Hase, where the office also is. That was the sub-department of the VVN.

Q. In Goslar then, at the house of this man Hase, is the office of the VVN in Goslar, is that right?

A. Yes.

Q. How many people talked to you at this office of the VVN?

A. Only one man negotiated with me.

Q. How many more were present?

A. Two.

Q. What did they tell you at the VVN in Goslar as to what would happen if you still would testify for the defense or appeared as a witness in Nurnberg at all?

A. They did not tell me what would happen but they said they didn't like it. I considered that a certain amount of pressure, and that is why I sent the telegram. I said that under those circumstances I did not want to oppose my comrades and therefore I would not go to Nurnberg.

Q. You said you considered yourself under pressure. Were you afraid that you might be expelled and that you might lose the advantages which the members of the VVN have?

A. Yes.

Q. In addition to your affidavit, I would like to ask you whether a so-called self-administration of the inmates existed in the Monowitz camp?

A. Yes. The Monowitz Camp was exclusively administered by the SS or the inmates.

Q. In Camp IV who was mainly active in the self-administration of the inmates, and which inmates were among the so-called prominent members of the camp? Can you tell us some names?

A. Prominent members among the inmates were the camp elder; then the capo of the camp; then the reporter.

Q. Who was the reporter?

A. Gustl Herzog. Then the clerk in the office —

Q. Who was he?

A. His name was Erwin Schulhof. Then the physicians among the inmates; a number of the block seniors; clerks in the political department; people of the chamber.

Q. I think, witness, that is enough. I would now like to ask you: In 1947, did anybody approach you asking you to inquire from other inmates of the Monowitz Camp as to whether they might be prepared to give an affidavit like you did, because after all you knew the inmates?

A. Yes.

Q. On that occasion, did you contact inmates?

A. Yes. I had a list of former inmates, among them were some names whom I knew; realizing that I would meet these comrades again, that I would be able to exchange thoughts with them, I said I was prepared to visit these people.

Q. What did these former inmates tell you about the living conditions in the camp? Did they say the same things you said in your affidavit?

A. On the whole, yes; those inmates who knew me assured me repeatedly that everything was very good in the plant. Some even exchanged pleasant memories, but the result was not as I had assumed. Although the testimony was along the same lines, I was nevertheless told that the Jewish Committee had issued directives according to which no Jew should go to Nurnberg.

Q. No further questions to the witness.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, both from your affidavit and your testimony today,

I gather the impression that you were a political rather than a criminal inmate at I. G. Auschwitz? Now is that so?

A. No.

DR. SEIDL: I object to that question. The prosecutor said that he gathers certain impressions from the affidavit of the witness. This is an impression the prosecutor gains, somebody else might have a different impression. This is not an admissible question to the witness. I object to the form and the contents of that question.

MR. MINSKOFF: If Dr. Seidl would read the second paragraph of the affidavit I believe he would understand what is going on. The witness states, "In March 1933 on Potsdam day I was arrested for being a member of the German League for Human Rights, a pacifist movement. I went to Duisberg and later on to the concentration camp Poppenberg." "And this afternoon, on the questions put to him by Dr. Seidl, he went into rather elaborate detail about being a pacifist and working with the pacifist organization, and finally in 1925 being convicted for betrayal of secrets, all because he was working for a pacifist organization. I don't know what kind of an impression Dr. Seidl gets from that but the prosecution definitely thinks that that was an attempt to create the impression that he was a political prisoner, and I want the witness to answer the Court very clearly as to whether he was apolitical prisoner or a criminal prisoner.

THE COMMISSIONER: The record may show —

DR. SEIDL: Mr. Commissioner, I have no objection against the question whether the witness was a political or a criminal prisoner. I

object to his not simply being asked whether he wore a red or green triangle. If he was asked what he wore he would probably say he wore a green triangle.

THE COMMISSIONER: All right, you may proceed, the record is complete now.

MR. MINSKOFF: I don't think the record could clearly show what he probably would say until he answers the question. I'd like the witness to answer the question: Was he a criminal prisoner or a political prisoner?

A. I was sent to a concentration camp in the later years for betraying military secrets, according to a decision of the Kammergericht in Berlin. This document contained exact statements concerning acts endangering the state.

Q. Mr. Witness, the question I asked was, when you were in I. G. Auschwitz were you there as a criminal prisoner or a political prisoner?

A. I came from Gusen to Monowitz with a green triangle but this does not exclude that one was not political. Many Jews also wore a green triangle. Apart from that it depended on the whim of each camp commandant, how he marked his inmates.

Q. Mr. Witness, is it your testimony then that although you had the green triangle of the criminal prisoner you were also political and that it was merely the whim of the camp commander which made you wear a green triangle? Is that your testimony?

A. My testimony is that the decision said that because I tried to betray military secrets I am being taken into protective custody. My other convictions were never referred to. I was merely taken into a concentration camp because of my danger to the state.

Q. I am not clear now anymore: Why did you have a green triangle which is what the criminals wore?

A. This was the triangle of those under protective custody.

Q. Mr. Witness, on June 30, 1926, when you were convicted in Duisburg, was that for a political crime or was that for perjury?

A. This was a crime of perjury. This was not expressly a political crime.

Q. Now, Mr. Witness, do you recall what punishment you were given at that time?

A. A year of hard labor.

Q. And what else?

A. One year of hard labor.

DR. SEIDL: Your Honor, I object to the question because the witness has already answered these questions in direct examination by the Defense. The witness was asked by me whether he had been convicted because of perjury and he was asked whether he had been convicted for making false statements in an affidavit and he was asked whether he was convicted for fraud. All this was already asked during direct examination. I do not object to the fact that questions are asked of the witness; I merely object to the same questions being asked of the witness which he has already answered.

MR. MINSKOFF: I suppose there is no way anyone can get Dr. Seidl to listen to what's going on and save the time of the Commission. The questions being put to this witness are not the same as those Dr. Seidl put to him. They are in addition to the ones he put to him, and the witness said to Dr. Seidl that he was convicted and had a one year penitentiary term, and I have asked this witness to tell the Court what other punishments he was given at that time in addition to the one year in the penitentiary.

THE WITNESS: I don't know what I am to say here. Are these minor

minor convictions? I got one year of penitentiary because of perjury and I lost my civil rights and I lost the right to appear as a witness for five years.

BY MR. MINSKOFF:

Q. That's something in addition to what you told Dr. Seidl. I thought the Court might want to know that. And this was during the Weimar Republic; this was long before the Nazi regime took over, isn't that correct?

A. It was in 1926.

Q. Thank you. Now, Mr. Witness, you say you had five years loss of civil rights and also five years incapacity to testify as a witness or an expert. Mr. Witness, isn't it a fact that at that time you were forbidden to ever be a witness to testify permanently, not for five years?

A. I talked of the loss of civil rights for five years. Whether the other item was for the rest of my life I do not know.

Q. Now, Mr. Witness, when was the next time you were convicted of committing a crime?

A. I have already said, in 1926 for executing the affidavit. I no longer know when this was. It was also in 1926.

Q. And that was because you had made a false statement under oath; isn't that correct?

A. It was the same statement for which I was sworn in later on and was convicted because of perjury. It was the same matter. The affidavit was made first and afterwards I was sworn in, so that I was

convicted twice for one crime.

Q. Now, Mr. Witness, when was the next time after that that you were convicted of a crime?

A. I have already repeated, because of fraud; after 1926 I was again convicted in 1933.

Q. Now, between 1926 and 1933 were you ever convicted of another crime?

A. (No response)

Q. I am sorry, I didn't hear that answer.

A. I haven't quite understood yet how I am to understand this. As far as I know I was convicted in 1925 and 1926 of perjury for making false statements in an affidavit and of fraud. All this was in 1926, as far as I remember.

Q. All right. Then you had no further trouble until 1933. Is that your testimony?

A. Yes, until 1933 I was not convicted any more.

Q. Now, Mr. Witness, you are under oath today too, you understand that?

A. I do not remember any other criminal act until 1933.

Q. Mr. Witness, on the 2nd of March 1928 weren't you convicted again for complicity in forgery and for an attempted fraud and sent to prison?

A. No. In 1927 I was in prison. I don't know where I could have been convicted then. I was not released until the beginning of 1929.

Q. Now, Mr. Witness, just think carefully. In Duisburg, on the 2nd of March 1928, wasn't there again a charge against you and a conviction against you for complicity in forgery and for attempted frauds and weren't you given an additional four months' term?

A. This is the conviction which I mentioned before from 1926. In 1926 I was only convicted of perjury and of making false statements under oath; and in 1928 I got the four months. I emphasized that but in my opinion this was in 1926 but it might have been during my detention that I was convicted. The actual crime also dates back to 1925. I believed that I had been convicted of this in 1926. It is possible that it was during my detention but I mentioned the prison sentence.

Q. Now, Mr. Witness, it is perfectly true that there was a conviction in 1925 and again on 29 October 1926. This is a third one on 2 March 1928. The one in 1926 was at Oberhausen. This was at Duisburg. Now, you have forgotten that entirely?

A. Yes. I must differentiate here. The affidavit was made at the Amtsgericht in Oberhausen and the conviction was pronounced in Oberhausen while the case of perjury was handled in Duisburg.

This conviction of fraud dates back to 1925 and I was convicted during my detention in Duisburg. It was my opinion that this was also in 1926. I cannot commit any crimes while I am being detained because I was in custody in 1928. There is probably some mistake here.

Q. Now, Mr. Witness, in 1928 didn't the court make it clear

10 May 48-A-DC-23-6-Goldberg (Juelich)
COURT VI, CASE VI, COMMISSION I

again that in addition to a five year penalty in the penitentiary, and this time a ten year loss of civil rights, that you were permanently prohibited and forbidden to testify as a witness in any case?

A. In 1928?

DR. SEIDL: I object to the question. The reason is that in my hands I have an excerpt of the communication concerning the conviction of this witness, and I shall quote from it:

"Conviction of Kammergericht of 10 December 1925; five years penitentiary; 5 years loss of civil rights and surveillance by police."

I cannot assume that this communication of 27 August 1945 should be so incorrect that such a contradiction should exist between the Prosecutor's documents and this communication.

MR. MINSKOFF: Dr. Seidl, well, there's no way to explain it, Dr. Seidl. The witness understood the question. He's referring to 1925, we passed over that half an hour ago. We are speaking of convictions in 1926 and 1928, on forgery and perjury, and on these convictions, particularly in 1928, the Court stated in very clear terms that in addition to a five-year penalty in the penitentiary, 5 years and 11 months in the penitentiary, and 10 years loss of civil rights, that this man was permanently forbidden to testify in any case, and I ask the witness whether he recalls that?

A This can only concern the general combination of convictions where all convictions were combined into 5 years and 11 months of penitentiary, and the previous conviction of loss of civil rights for life was mentioned here again. I got 5 years of loss of civil rights for betraying military secrets. Then 5 more years later. All this was combined into 5 years and 11 months in the penitentiary and 10 years loss of civil rights.

Q But the part that prohibited you from testifying as a witness

only came as a result of the fraud and perjury, and false affidavit charges against you, isn't that correct?

A Yes.

Q Mr. Witness, now on 7 March 1933, the charge against you there was again forgery of documents and illegal collusion and fraud, as well as attempted fraud, is that correct?

A Yes, I said so.

Q Now, Mr. Witness, isn't it true that in March 1938, some five years later, you were again convicted of fraud and forgery and received a four-month term in Duisburg?

A That's not right. When did you say this was?

Q On 2 March 1938?

A I was in the camp then. It cannot be right. It isn't correct. These are my convictions which I stated, and there are no more. In March 1938, I never was in Duisburg.

Q Mr. Witness, in October 1947, were you found guilty of a crime of breaching the price regulations right here under the American occupation?

A For violating the local price regulations I got a fine of 75 marks.

Q That was in October 1947, isn't that right?

A Yes.

Q Now Mr. Witness, what kind of work do you do?

A At the moment I am a business representative.

Q And what kind of work?

A I work for the supply central office of the German mining system in Wuppertal, for the firm of Wubela.

Q And you have been so employed for the last year?

A Yes.

Q Now Mr. Witness, when you testified a little earlier that you spoke with some inmates and the mentioned to you that they didn't think it was right for you to testify in Nuernberg, isn't it a fact that the reason you saw these inmates was you were trying to get affidavits from them for the Defense?

DR. SEIDL: I do not want to object to the question. I merely want to have it clarified which inmates or what period of time the Prosecutor means. Whether he means that discussion which took place in Goslar a few weeks ago with members of the VVN, or just to whom he refers?

MR. MINSKOFF: I will get to all of them. Just give me time.

THE COMMISSIONER: About how long do you think this witness will last? Will you get through with him by 4:30?

MR. MINSKOFF: About 15 minutes. Will the sound track go out before then?

THE COMMISSIONER: We will go on until 4:30 and then we will recess.

MR. MINSKOFF: O.K.

BY MR. MINSKOFF:

Q Now, Mr. Witness, do you have the last question or shall I repeat it?

A Please repeat it.

Q You stated on direct examination that you spoke to a number of inmates who belonged to the inmate Persecutee Organization, and you felt under pressure when you spoke to them because they suggested that you

10 May-A-II-24-4-Ramler (Int. Juelich)
Court VI Case VI COMMISSION

shouldn't testify in Nuernberg. Now, the question I put to you was, isn't it a fact that the occasion on which you spoke to these inmates was due on behalf of the Defense who were seeking affidavits from them, and they refused to give them to you and stated why in very clear terms? Isn't that a fact?

A No, I never approached those witnesses to get statements. In no case.

Q Mr. Witness, is it your testimony that you have not approached any inmates to give affidavits for the Defense?

A I have already said that I made a trip. I had a list of former comrades whom I visited. We talked quite casually about conditions. I said there that as a witness I would describe the impressions which I had gained then in Monowitz. I never even told these people that they should make a statement.

Q Well, I am not quite sure that I got your answer. Is it your testimony that you never have requested an inmate who had lived in Monowitz to give a statement for the Defense? Now, you say you had or hadn't?

DR. SEIDL: Mr. Commissioner, again I don't want to object, but I believe that the Prosecutor should clarify which discussion he is talking about, whether he is talking about the summoning of this witness to the VVN in April of this year about which he reported, and while Roeschl, Hase, and a third person were present. I have the feeling that there is a mistake here because the witness is talking about one thing and the prosecutor is speaking of another.

MR. MINSKOFF: I will try to be as clear as I can.

THE COMMISSIONER: Will you fix a time and place when he did that?

BY MR. MINSKOFF:

Q This man, I don't know, may have, during the last year, spent most of his time just looking for inmates. He may not have. I am asking the witness, is it a fact that he has, during this last year, contacted quite a few inmates of Monowitz with the express purpose of

gaining affidavits from them for the Defense? That's a very simple question.

A I have already answered to that. I was in Berlin and there I visited inmates. I talked to them but I never asked an inmate to give an affidavit. This was merely an informational conversation, whether and how the people would describe their impressions. I never asked any inmate to give an affidavit about this. If I had had the impression that these people would do that, then this was up to the Defense to do this.

Q Now, Mr. Witness, do you remember seeing Mr. Posener in Hamburg, who was an inmate at Monowitz with you?

A Yes.

Q Now, do you recall speaking to this Mr. Posener about conditions at Auschwitz, and whether he would be willing to testify for the Defense?

A No, I never requested anything like this of Mr. Posener. He is the District Secretary of the VVN, for Schleswig-Holstein. I never asked Posener to testify to anything. On the contrary. Mr. Posener merely gave me a written statement that I had behaved decently as an inmate in the camp, that I had helped many Jews, and that when the Germans were transferred to German blocks, I never went there, I remained in the Jewish block with my fellow inmates. That was the subject matter of our discussion. Posener told me then that he had been in Nurnberg and also some of the other comrades, but I never asked Posener to testify or say anything like that or make an affidavit. That's quite impossible. Apart from that I gave this written statement of Posener to the Defense. This should show clearly that this could not have been the case.

10 May 1948-A-DJG-24-3a-Ramler (Juelich)
COURT VI, CASE VI, COMMISSION

Q Now, Mr. Witness, you told the Court on direct examination that these witnesses you spoke to gave pretty much the same impression of Monowitz that you gave in your affidavit. Now where did Mr. Posener tell you what he thought of I.G. Farben's role in Monowitz? In I.G. Auschwitz?

A We talked very little about the life in Monowitz. Posener knew me, and we had spent many happy hours together. We exchanged memories, and Posener did not have so much time. He was always too busy to enable us to talk about this at length.

Q And you never informed anybody of the Defense that Posener could not be used as a witness because of the things he said about I.G. Farben's role in I.G. Auschwitz?

A No, one could not say that this was information because we did not discuss Monowitz at length. Posener was pleased to see me again. We talked to each other. He introduced me to other comrades and told them that we had been through a rough time, we were together in the same block, and we exchanged memoirs. Nothing more. I could not say he made any unfavorable remarks.

MR. MINSKOFF: Now, Mr. Commissioner, in view of the fact that it is now 4:30, shall I recess and continue tomorrow morning?

THE COMMISSIONER: Yes.

MR. MINSKOFF: How late tomorrow morning can we start?

THE COMMISSIONER: 9:30.

(The Commission recessed until 0930 hours, 11 May 1948).

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OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 40**

**TRANSCRIPTS
(English)**

11 May - 1 June 1948 pp. 14246-14546

11 May 1948-M-MSD-1-1Mills (Katz)
Court VI, Case VI

Official Transcript of Military Tribunal
VI, Case VI, in the matter of the United
States of America, against Carl Krauch,
et al., defendants, sitting at Nuernberg,
Germany, on 11 May 1948, Justice Shake
presiding.

THE MARSHAL: Persons in the Courtroom will please find
their seats. The Honorable, the Judges of Military Tribunal
VI. Military Tribunal VI is now in session. God save the
United States of America and this Honorable Tribunal. There
will be order in the Court.

THE PRESIDENT: Make your report, Mr. Marshal.

THE MARSHAL: May it please Your Honors, all defendants
are present save the defendant Hoerlein, absent due to
illness.

THE PRESIDENT: Any announcements from counsel?

DR. VON METZLER (For the defendant Gajewski): Mr.
President, I received this morning an affidavit enclosing a
photostatic copy of a newspaper article, which I would like
to introduce, with Your Honors' permission, as Defense
Exhibit 85 for the defendant Gajewski.

THE PRESIDENT: Does it have a document number?

DR. VON METZLER: It is -- well, I'm afraid, Mr. President,
I haven't got the document number because my secretary is
not here yet.

THE PRESIDENT: Will you supply it during the day some



time, so we can keep the record clear, and I will lay the note aside here. What exhibit number will it bear?

DR. VON METZLER: 85, Mr. President. Gajewski 85.

THE PRESIDENT: Then sometime give us the document number so we will have a complete record of it.

DR. VON METZLER: Yes, thank you very much.

MR. SPRECHER: Mr. President, even at this time could we have an indication of the nature of this newspaper article and when it was published and where?

DR. VON METZLER: Mr. President, this is a letter to the editor published in the British Journal of Photography in the issue of 1 November 1946, Volume 93, on page 398. There is a specific paragraph in this letter of the editor which is of some importance with regard to the nature of the production of Agfa. May I very briefly read this paragraph to the court: "COS official report -- Agfa Film Factory -- Research for wartime needs was unknown in the sense in which we understand it in England, and close contract with government research organization does not appear to have existed. Agfa research workers appeared to be quite unfamiliar with the problems of air photography." The report goes on to say that as Professor Eggert and many of his research staff were in bad odor on account of their known anti-Nazi views, the company was subjected to considerable inconvenience.

MR. SPRECHER: Mr. President, I don't think we have to

go farther to note the purpose at this stage of introducing a letter from an editor.

THE PRESIDENT: Gentlemen, I think we have too many other matters of pressing importance today to take up the question of the admissibility of individual documents. Before the day is over we will make some order with respect to that that will protect the rights of the prosecution to object before the books are finally closed on the evidence. Rather let's adhere to our rule, because if we depart from it we are likely to consume a lot of time here that we desperately need to finish our program.

MR. SPRECHER: I'm sorry, Mr. President. As I understood the rule that had already been laid down, this would clearly be outside of any permissible evidence.

THE PRESIDENT: You may present that in a motion at the proper time.

DR. SILCHER: Mr. President, on the general subject, "Responsibility of the Vorstand", I want to offer three more documents.

THE PRESIDENT: Counsel, if you please, we are going to attack this matter of additional documents rather vigorously just in a little while. We do have a rather pressing situation concerning two possible witnesses on the stand whose physical condition is such that we want to dispose of them as promptly as we can, and I think, if you do not

mind and will be here during the day, we will ask you to step aside until we have taken care of that matter, and then we will hear you.

DR. SILCHER: Of course.

DR. VON METZLER: Mr. President, I have just been furnished with the document number. May I introduce it now?

THE PRESIDENT: Yes.

DR. VON METZLER: It's Gajewski Document 85, Exhibit 85.

THE PRESIDENT: Thank you.

DR. VON METZLER: Much obliged.

THE PRESIDENT: Since the rulings which the Tribunal is about to make may have some direct or indirect influence on the subsequent procedure in the trial, even at the risk of consuming a little time we should like to clear the decks of some pending matters. Judge Morris has a motion on which he will rule on behalf of the Tribunal.

JUDGE MORRIS: The motion now under consideration is that filed May 5, 1948, by Dr. Dix, "Hudolf Dix, representing all of the defendants, and with respect to statements heretofore made by the Tribunal as to affidavits of defendants who have not taken the witness stand and therefore have not subjected themselves to examination and cross-examination, the motion proposes that these affidavits be stricken with respect to defendants other than the affiants.

The Tribunal rules with respect to such affidavits, being those of the defendants von Schnitzler and Lautenschlaeger, that the consideration of the affidavits of these affiants who have not taken the witness stand, is restricted to the affiants, and such affidavits are not considered as evidence against defendants other than the affiants themselves.

The motion also includes an affidavit of Dr. ter Meer, Document NI 5187, being Prosecution's Exhibit 334, dated 22 April 1947, in which Dr. ter Meer sets forth a quotation from a statement given to him by Dr. Schmitz, which the affiant ter Meer discusses at considerable length in his affidavit.

It is the opinion of the Tribunal, and it therefore rules, that the entire affidavit of Dr. ter Meer, who did go on the witness stand, is admissible in evidence and will be considered with respect to all defendants, and that the statement of Dr. Schmitz will not be stricken therefrom as requested by the motion.

JUDGE HEBERT: For the record I wish to make one brief statement. I recognize that the ruling just entered by the Tribunal is procedurally proper at this time as being consistent with the theory upon which this case has been tried to date, and because it is in harmony with the ruling of the Tribunal that was previously announced on this general subject. But for the record it will be recalled that when this matter was earlier under consideration I stated at that time that I was not prepared to say that, in the event a situation should develop in which one of the defendants should not take the witness stand, that his affidavit might not be considered in evidence for all purposes and against all defendants.

Since that time I have had the opportunity to give further consideration to the general question involved, and I deem it a matter of considerable importance in relation to the procedure in the conduct of war crimes trials generally, based upon my subsequent studies, I am more firmly convinced than ever that the entire series of rulings of the Tribunal, with reference to the admissibility of affidavits, is in error and in derogation of the provisions of Military Ordinance Number 7.

I am convinced that one of the principal purposes in providing for the admissibility of affidavits in derogation of the ordinary hearsay rule was to provide a means for the perpetuation of evidence in the form of affidavits, in recognition of the very practical problem that the affiants might not be

produced when the trial was in progress. I say that that is one of the purposes. I think there were other purposes: such, for example, as to facilitate the presentation of evidence, and of course the negative also -- the hearsay rule.

The entire series of rulings is predicated upon the idea that unless the affiant, where the prosecution introduces an affidavit, is subjected to cross-examination, the affidavit is not admissible, because cross-examination is deemed to be a matter of right, and the affiant is considered as a witness giving testimony against the defendants.

I believe that that is in violation of the rule of construction that you should attempt to give effect and force to all provisions in construing a statute or a procedural ordinance of the type that is here involved, and that this is not the correct interpretation of Military Ordinance Number 7, or, to sum up, that affidavits are admissible, even though the affiant can not be produced for cross-examination, regardless of the reason for which he cannot be produced -- whether he is not available within the jurisdiction, whether he is deceased (as in the case of the Hoess affidavit) or whether he is a defendant who claims the privilege against self-incrimination and does not elect to take the witness stand.

So, with those reservations and recognizing, however, that inasmuch as this case has been tried upon the theory that these statements in affidavits would be disregarded insofar as co-

defendants are concerned, I express my disagreement generally with the ruling.

JUDGE HERFELL: Having in mind my continued responsibility as an alternate member of this Tribunal, it is incumbent upon me to state, for the record, my position on the question concerning the admissibility of evidence as to which the Tribunal, by a majority of its members, has just made a ruling.

To avoid taking up the time of the Tribunal unduly, I shall read only a few paragraphs from a statement and file the full statement with the Secretary General as a record in this case.

First, a word as to what I mean by the phrase, "my continued responsibility as an alternate member of this Tribunal." My position is such that full responsibility for sharing the decisions of the Tribunal would be imposed upon me only if one of the regular judges of the Tribunal should, for some reason, become indisposed and could no longer serve. It is a possibility -- but it is my hope and prayer that it will not occur -- that I may be called upon to assume the place of any one of the three regular members of the Tribunal. From that time I would share direct responsibility for the final determination and judgment of this Tribunal. In the light of that prospect, I cannot close my mind to the possible effects which the rulings of this Tribunal, made during the trial, may have on the final result.

The ruling of the Tribunal that affidavits of those defendants who do not take the stand as witnesses will not be considered as to other defendants, is a corollary to the ruling of the Tribunal that affidavits of affiants will not be admitted upon a showing that such affiants are not available for cross-examination. I agree with the opinion as expressed by Judge Hegert on December 2, 1947, and repeated today -- that the admissibility of evidence should not depend upon the availability of the affiant as a witness for the purpose of cross-examination.

A thorough study of the provisions of the charter, Control Council Law Number 10, and Ordinance Number 7 prescribing rules of procedure for these Tribunals, and the precedents established by other Tribunals administering international law, convinced me that in keeping with the expressed intent of the law to avoid technical rules of evidence and to admit any evidence deemed to have probative value, affidavits should be received in evidence without regard to whether the affiant is available for cross-examination.

Of course, it must be recognized that, in a search for truth, cross-examination is an important help. However, even without cross-examination, the sworn statement given by one conscious of the possibility of penalty for a false statement has a certain weight beyond that of the ordinary voluntary statement given without the sanction of an oath.

The lack of cross-examination goes to the weight of the evidence and not to its admissibility. As a statement given in the form contemplated by the Ordinance, the affidavit should be admitted so that it can be considered in the light of all the circumstances and given such weight as, in the sound judgment of the Tribunal, it is entitled to receive.

The ruling just announced, in my mind, is a contradiction of the clear intent of the charter, a nullification of the provisions of the Ordinance binding upon this Tribunal, and contrary to the procedure established and followed by other Tribunals enforcing international law.

It is my opinion that the affidavits should be considered as evidence as to any defendant to whom they refer directly or indirectly -- even though the defendant giving the affidavit is not cross-examined by or on behalf of the defendant thus referred to -- and given such weight as, under the circumstances, including lack of cross-examination, in the sound discretion of the Tribunal, they deserve.

JUDGE SHAKE: I merely wish to state for the record that I concur with the views expressed and the ruling made on behalf of the Tribunal by Judge Morris.

Now gentlemen, we have some other matters. On 11 February Dr. Welte filed a motion with respect to Document NI 12452, Prosecution's Exhibit 1715. That pertained to the documents attached to the affidavit of Dr. Tondos.

11 May 1948-M-MSD-2-6-Mills (Katz)
Court VI, Case VI

Since it has subsequently been made to appear to the Tribunal that the documents connected with that exhibit have been made available, the motion is now dismissed without any ruling.

The motion of Dr. Boettcher on behalf of the defendant Krauch, dated 10 May asking the Tribunal to strike from the evidence Prosecution's Exhibits 1840, 1841, 1842, 1843, 1979, and 1980, is overruled by the Tribunal.

The motion presented by Dr. Rudolf Dix on behalf of the defendant Schmitz on 7 May, with reference to the Prosecution's Exhibit Number 334, is denied in view of the statement made by counsel for the prosecution on the record yesterday.

The motion presented by Dr. Aschenauer on behalf of the defendant Gattineau on 5 May 1948, relating to Document 3763, is denied for the reason that the motion does not sufficiently advise the Tribunal of the exhibit involved and the Tribunal will not search the record for grounds for striking a document.

MR. SPRECHER: Mr. President, did I misunderstand the exhibit number? I thought you said 3763.

THE PRESIDENT: I said Document Number 3763. I do not know what the exhibit number is. That is the reason why the motion is denied, without considering it on its merits.

The motion of Dr. Flaechsner, Dr. Hoffmann, dated 5 May 1948, to strike the prosecution's exhibits 2206, 2207,

11 May 1948-M-MSD-2-7-Mills (Katz)
Court VI, Case VI

and 2208 from the record, is overruled because the objections lodged against these exhibits go, in the opinion of the Tribunal, to the weight to be attached to them rather than to their admissibility.

The motion filed on May 10, 1948, by counsel for the defendants Gajowski, Burger, Lautenschlaeger, and Kuohne, relating to Prosecution's Exhibit 2263, offered by the Prosecution as a part of its rebuttal, is sustained, and said Exhibit 2263 is stricken from the evidence.

The motion presented on May 7, 1948, by Dr. Mueller and signed by a large number of the members of counsel for the defendants, which consists really of eight separate and distinct motions, will not be formally ruled upon by this Tribunal. These motions present questions of law, interpretations of ordinances and statutes, which the Tribunal feels that it will be in a better position to deal with, insofar as it may be necessary to concern ourselves about such matters, after we have heard the arguments of counsel, considered the briefs submitted by the parties, and come to the responsibility of writing a final judgment.

So far as the chair knows, this now disposes of all pending motions. It does occur occasionally that some motion does not reach us because it is tied up some way along the line in the processing of documents. If any of Defense counsel know of any pending matter in the nature of a motion that has not now been ruled upon, please call our attention to it during the course of the day, so that we can find the documents and make the appropriate ruling.

Dr. Berndt, are you ready to proceed with the examination of your witness?

DR. BERNDT: Mr. President, Your Honors, I have already submitted three books on the regulation of economy in the Third Reich and have assigned exhibit numbers to the individual documents. Today I should like

to make a few very short remarks on this and shall emphasize only the most essential legal provisions. Following that I shall interrogate the witness, who does not come from the Farben enterprise and who will show by a few practical examples how the economy was controlled in Nazi Germany and what, in particular, the position of the entrepreneur was. In the three books I have compiled the most important laws and ordinances which were issued in the field of economics from 1933 on by the Nazi Government through those laws and ordinances.

The original free German enterprises were little by little, at first, made part of the general plan under the Third Reich, then directed by the State, oriented and dominated along Nazi lines, and, finally, ruthlessly subjected, so that the original free economy was transformed into a regimented economy. Three books have been compiled, and if one reads them today one is astonished at how cleverly the Nazis managed, with the aid of these legal provisions, to reach their aim, namely, dominating and regimenting the German economy. Every book is preceded by the same index. From that you can see that the laws have been divided into seven groups, the first two of which are contained in the first book; the next two in the second book; and the fifth, sixth and seventh group in the third book. I want to discuss those very briefly. The first group —

THE PRESIDENT: Dr. Berndt, that is highly argumentative. We would be glad to have your views, but this is, as we understand it, the last day for the presentation of evidence. We understood that the program today would be taken up primarily by receiving additional documents and, in

addition to that, hearing the testimony of a witness or so. We think you ought to call your witness and examine him and leave the argument until the time for argument arrives.

DR. BERNDT: Couldn't the Tribunal permit me, nevertheless, to explain briefly the most essential laws and ordinances that have been issued in the field of regulation of the economy, with only a few short sentences? I don't believe that would be argument but would be only a small accompanying music to a very sober sort of law.

THE PRESIDENT: How much time would it take you, Dr. Berndt?

DR. BERNDT: Seven minutes.

THE PRESIDENT: That means you will be through before a quarter of ten. You may proceed.

DR. BERNDT: Very well. Thank you. In the first group I have compiled those provisions which contain the basic measures issued by the Nazis for alleged organization of economy but, in reality, for the domination of free economy. I emphasize the Law for the Regulation of National Labor, which is the most famous of the organizational law of the Third Reich, and also the Law for the Organizational Structure of German Economy, the basic law for the later state control and direction of economy.

I further emphasize the ordinance about the Chambers of Industry and Commerce, which made it possible for the leadership of the State to transform these Chambers of Industry and Commerce, which had originally been the free, independent representatives of economy, into an arbitrary instrument of the government for the domination of commerce and production. I also

mention the Fuehrer Ordinance of October 1936, the War Economy Ordinance of 4 September, 1939, which fixed even the death penalty for any conduct detrimental to the war.

In the second group contains the labor commitment laws, which subjected the entire German people and which affected each particular member by way of procurement of labor. The entire German people were called into the absolute labor service of the totalitarian state. I emphasize the Decree for the Change of Regulations of Labor Commitment, dated 1 September 1939. Here the Reich Labor Minister is given blanket plenipotentiary power for adapting labor commitment to state political necessities. This gave the administration authorities -- namely, the Reich Labor Minister -- the authority to order that any German be subjected to compulsory labor without any legal action, in the interest of the Nazi state.

The Third Group contains the laws which refer to the National Socialist Compulsory Order Provision on prices and profits. In their practical results, they precluded free initiative of the employer and brought economy completely into the control of the National Socialist Leadership as far as price was concerned. I want to emphasize three laws: the Law on the Distribution of Profits in Stock Corporations; the so-called Loan Stock Law. Although the large private enterprises had to bear the costs of the inner-German boom which was artificially activated since 1933, these laws prevented the entrepreneurs from making any profits from this economic boom.

The legislation on foreign currency has been compiled in the fourth group. It was created out of an emergency at first, since Germany had a

scarcity of foreign exchange because of the scarcity of raw materials. This emergency was deliberately exploited by the State Leadership in order to make the free enterprise ready to accept the wished of the Nazi totalitarian state.

In the fifth group are compiled the special laws of the Third Reich for the purpose of dominating production and commodity exchange. They were issued beginning with the first year of the National Socialist regime, and more and more in the course of the years excluded the freedom of private enterprise. May I emphasize here the provision on the establishment of control agencies, which provided for the rationing of all raw materials and consumers' by Reich agencies.

The sixth group contains the provisions about controlled economy in the sector of building and construction, which was the key position for German private economic development. Private industry was permitted no more leeway at all here. No economy could carry out the least expansion of its plants without having to get a special permit for each little act.

Your Honors will remember this Exhibit 109, which was introduced by Dr. Ambros. This shows that for construction of the Farben Plant at Auschwitz altogether 106 agencies had to grant their approval: agencies of the military, the police, the Reichsbahn, the ministries and other offices, the government in Silesia, and finally, the agencies of the Party.

Finally, the last group contains a few results of National Socialist oppression by way of a few examples.

It is shown that the corporation tax law tightened the screws more and more. In 1934 the corporation tax amounted to 20 per cent; in 1937 30%; in 1939 it was fixed at 40 per cent; and in 1942 it was fixed at 50 per cent.

Much better than theoretical explanations, I believe, will be a picture of the regulation of economy by the Nazis by the examination of a witness who can explain to you the developments and results, with the aid of practical examples.

May I ask you, Mr. President, that the Marshal be instructed to call the witness Dr. Hellmuth Vits to the witness stand?

THE PRESIDENT: The Marshal will bring the witness.

May I say, gentlemen, that, perhaps because of the bad example set by the Tribunal in consuming a good deal of time this morning, that we have gotten off to an unfortunate start. From now on until four forty-five, except for time when we are out on recess, the time of this Tribunal is going to be consumed by hearing witnesses and the marking of documents without comment. It is necessary that we adhere to our announced and established practice if we are to bring this trial to a conclusion in the time limitations that we have already rather generously agreed to impose upon ourselves.

May I ask you, Doctor, how long you think it will take you to interrogate this witness?

DR. BERNDT: Not more than thirty minutes, twenty to thirty minutes.

THE PRESIDENT: Could we settle on twenty-five?

DR. BERNDT: Mr. President, I believe that so far I have always

kept within the time limit, and I shall comply with your desire as well.

THE PRESIDENT: Very well.

(DR. HELLMUTH VITS, a witness, took the stand and testified as follows):

THE PRESIDENT: Mr. Witness, you will remain standing, raise your right hand, say "I", and state your name for the record.

WITNESS: Dr. jur. Ernst Hellmuth Vits.

THE PRESIDENT: Now, will you please repeat after me the oath of a witness: "...swear by God, the Almighty and Omniscient, that I will speak the pure truth and that I will withhold and add nothing." (Witness repeated the oath).

You may be seated.

DIRECT EXAMINATION
DR. HELLMUTH VITS

BY DR. BERNDT:

Q Witness, would you please repeat your name for the record?

A Dr. jur. Ernst Hellmuth Vits.

Q What position do you hold at present?

A Chairman of the Vorstand of the Vereinigte Glanzstoff Fabriken
A.G.

Q Do these plants have anything to do with Farben?

A No, they have no connection as far as capital is concerned.

Q Do you have any other relations with Farben?

A We are a competitive enterprise of Farben in the field of rayon and synthetic fibers.

Q What other position do you hold in public life?

A I am the financial advisor to the U.K. - U.S. coal Control Group, in Essen - Villahuegel.

Q Do you carry out that activity with the approval of the British and American authorities?

A The British and American authorities appointed me advisor.

Q Would you please tell me what position you held before? I am interested only in your position in economic life.

A From 1929 until 1939 I was in a leading position; I was at the end a regular Vorstand member of the Deutsche Revisions und Treuhand Aktiengesellschaft, in Berlin, the largest German auditing corporation. Since 1939 I was director-General of the Vereinigte Glanzstoff Fabriken and chairman of the Aufsichtsrat and member of the Aufsichtsrat of subsidiary companies and friendly enterprises.

Q By virtue of your position now and before, you know the structure of German economy?

A Yes.

Q In the so-called liberal economic system of the 19th Century, the entrepreneur was free in his economic decisions and actions. Did the State worry about economy at all under that system?

A To a certain extent. The state made decisions in the field of finance, tariffs, and trade agreements under the liberal system. Besides, there were certain industrial concessions given by the State. I believe that every orderly state had to reserve the right to make these decisions.

Q According to what aspects was economic life carried on in

Germany before the First World War?

The entrepreneurs decided on their own, according to economic considerations. The entrepreneur decided on his own, without the State's exerting any influence on his activity. He decided the extent and type of his production, and the extent and type of his sales. State restrictions were imposed only in general, as in the liberal economic system; but next to that, a new state influence had arisen in the field of social protective labor laws.

Q Was this system maintained during the First World War?

A During the First World War Germany was blockaded, with the result that important economic commodities became very scarce. In view of the emergency created by war, scarce commodities were at first confiscated by the State and distributed by the State. Then the production and processing of certain economic commodities was prohibited altogether, since the raw materials could be used only for production essential for war. Finally, laws were issued on the control of production and the fixing of prices.

Q Did these measures remain in force after the First World War was concluded?

A After the First World War an attempt was made in Germany to abolish all controlling measures in economy. Many people believed that one could return to the situation as it existed before the First World War. However, that was impossible. Added to the losses of German economy by war and the subsequent inflation, were the reparation payments. All the duties and obligations resulting therefrom could not

be met by a liberal economic system in the sense of the 19th Century. Apart from that, the general distress had increased to such an extent that intensified social legislation became necessary. Not only the people who thought along socialist lines, but also the more liberal democrats believed that a restriction of the liberal system of economy was proper and appropriate. The Weimar Constitution then provided, in its Article 153, that the use of property was to serve the common weal. In its Article 155, the Weimar Constitution also provided that the working and exploiting of the soil is a duty of the owner towards the community.

Q These provisions all refer to things. Were obligations and duties of persons also fixed by law? Please do not mention details in your answer.

A Obligations were also fixed for persons. The so-called Auxiliary Service Law during the First World War, later the Socialization Law, according to which every German had the ethical duty of making his mental and physical powers serve the common weal.

Q We have heard that the emergency of the First World War brought about a number of restrictions on economy. What was the attitude of the National Socialists toward economy, that is, the people who came to power on 30 January, 1933?

A The National Socialists started out from entirely different assumptions with regard to economy.

Q To what extent did these ideas of the Nazis differ from what you have told us up to now?

A The National Socialist economic policy didn't start out from any economic considerations. It used the economy as a means of power to dominate Germany. The economic expert was consulted, but the politicians always made the decisions.

Q What part did the entrepreneur play in that connection?

A The entrepreneur was regarded with considerable suspicion by the Party and the State. Therefore, everything was done to weaken his position of power. On the one hand, this was done by having more and more Party, State, and other agencies, such as chambers of commerce or economic groups and sub-groups authorized to issue directives to the entrepreneur; on the other hand, by splitting up his jurisdiction and transferring his own functions to politically independent persons. It is characteristic that in all ordinances or laws the word "entrepreneur" was no longer used; only "plant leader". The old, independent free enterprise was superseded by the plant (Betrieb), which had to subordinate all of its activities to the interests of the State. The entrepreneur was frequently abused or ridiculed in public. I remember distinctly the effect of a Hitler speech in which it was stated that the Aufsichtsrat members all traveled first-class on the railroads and had wonderful meals. "Aufsichtsrat members" undoubtedly meant the class of entrepreneurs. In individual cases as well the entrepreneurs or plant leaders were shown that they now had only a subordinate role. A plant leader once told me very indignantly that the head of the German Labor Front, Dr. Loy, had visited his plant. Dr. Loy requested him, the entrepreneur, when they inspected the plant, to march three steps behind him. Before that,

11 May 48-M-4B-4-7-Schwab (Int. Katz)
Court No. VI, Case No. VI.

even the head of a state, when inspecting a plant, had always considered himself the guest of the entrepreneur. But under the National Socialist regime the visitor became the commanding officer and the entrepreneur became the subordinate, that is to say, he became the functionary.

Q Is your opinion corroborated by legal provisions?

A Yes, first the corporation law of 1937, which is of special interest in this trial, under Paragraph 70 makes it a duty for the Vorstand to direct its business in such a way as the common weal of the people and Reich demand.

Secondly, the Law for the Regulation of National Labor of 1934, demands of the plant leader, as well as of his associates, that they subordinate themselves to the common weal.

What is understood by "common weal of the people and of the Reich" and what was to be understood by the common weal was not fixed by law but was a matter of interpretation. This interpretation was done exclusively by the Nazi politicians.

Q You just said that the politicians were in charge of economy and not the economists. Could you prove that to me with the aid of laws?

A Yes. First a possibility of consolidating industrial enterprises in obligatory cartels was created. That was done in July, 1933, by the obligatory cartel law. Furthermore, all enterprises could be forced to join the organization of industry, by the so-called compulsory Organization Law of 27 February, 1934, and its implementation ordinances. Finally, by an ordinance dated July, 1934, the Reich Minister of Economics was empowered to take all steps which he considered necessary for the promotion and support of German economy, and for the prevention and removal of economic detriments. Even broader powers were given to the Plenipotentiary for the Four-Year Plan in 1936. He was given the authority to issue instructions to all authorities, and that

included economic agencies. Any violations of the above-mentioned provisions were punished by fines or prison.

Q Did these laws actually have any influence upon your activities as an entrepreneur?

A It was so, indeed. The economic politicians and the people drawing up the economic program for the Nazis, and the officials of the State Agencies, currently enforced this legislation and made economic decisions or issued economic orders.

Q Can you give me a few examples from your branch of industry? I must ask you, in view of the prescribed time limit, that you confine yourself to one or two very striking examples.

A I can point first to the fiber program, which was carried out in 1934, and according to which the Vereinigte Glanzstoff-Fabrik, A.G., and I. G. Farben were forced to construct synthetic fiber plants. From my files I can see that Dr. Gajewski of Farben and the Vorstand of the Glanzstoff, A.G., expressed serious misgivings, but fixed decisions and now steps were threatened as a result. What that meant, we were not told in detail. Furthermore, I can mention a few examples -- and I want to point out in that connection that I was instructed about the contents of this examination only 3 days ago, so that I can cite only those examples which remained in the memory of my associates as particularly striking.

In June of 1938 my company was informed by the Reich and Prussian Minister of Economics that the division of our production into various types would be fixed by the various Reich Plenipotentiary. This took the organization of our own production program out of our hands.

Furthermore, we were forbidden to increase production figures without the approval of the Minister of Economics.

In August, 1937, production expansion was approved for one of our plants, but with the reservation that the new machines that we needed would later at any time be made available to any other plant upon instructions of the Reich Plenipotentiary for the Four-Year Plan. We had to carry out this plant expansion but later were no longer able to dispose of the machines.

In 1937 the Plenipotentiary for the Four-Year Plan informed my company that any procurement of materials would be considered economic sabotage, - that is, any procurement that exceeded the requirements of the Four-Year Plan. Finally, it is worthy to mention that in another plant of my company, complete prohibition of construction was imposed.

Q I believe that is enough, Dr. Vits. I want to ask you whether at least within the framework that was set for you by the authorities, whether within this scope you were free to make your own decisions?

A Within the scope, yes, but that scope had become very narrow because of the regulations that had been issued.

Q Can you give me any other example, perhaps outside of your enterprise, which might be particularly typical?

A The refining of German ore was always extremely interesting in that connection. The West German Iron Industry, a private enterprise, owned the ore resources in the Salzgitter area in Central Germany. They were requested to carry out mining on a large scale and to construct a

large plant for refining these ores. When misgivings were expressed because of the low quality of the ores, the Reich incorporated a Reich company, called "Reichswerk A.G. Hermann Goering". This Reich enterprise now took over all of the sources of ores that had been privately owned before. This case later induced industrialists to carry out the projects which the Reich desired. Thus they wanted to prevent such projects being taken over entirely by the Reich, under complete disregard of principles of private enterprise.

Q Were there any restrictions in the field of production and sales?

A Yes. I have already mentioned that the distribution of production in my enterprise was fixed down to the smallest detail by the authorities. The Control agencies and the Reich agencies were used for this purpose.

Innumerable ordinances were issued for this purpose. For instance, the Control Agency for Metals issued regulations which stated whether and to what extent and under what circumstances one could produce metals, or whether metals were not to be produced.

Obligation to process and to deliver was laid down in law and there was no legal recourse of any sort against these obligatory provisions.

Q Did the war economy bring about a change in the state control system in the field of economy which you have described?

A The control system had been almost absolute, even before the war, but at the beginning of the war and later, it was systematically

perfected. In that connection, I may mention the Ordinance for economic Administration of August, 1939, which gave the right to the Oberpraesident to issue instructions and directives. These people could subordinate the organizations of industry; they could incorporate them or dissolve them at will. Any gaps that might have been left were filled in by the War Economy Ordinance of 4 September, 1939, which provided the death penalty for especially serious violations.

Q This brings me to the last point, which interests us particularly. That is the question of the personal relationship of the people in the German economy; what can you tell me about this?

A Already in August, 1934 -- that is, 18 months after Hitler's assumption of power, the President of the Reich Labor Exchange and Institute for Unemployment Insurance (Reichsanstalt for Arbeitsvermittlung und Arbeitsversicherung) to control the distribution of manpower. In 1938 the President of the Reich Association was alone empowered, was given the right of demanding labor conscription. This power was expanded by the law of September, 1939, which gave the authority to any administrative agency to conscript any German for labor in the interest of the National Socialist State, merely by issuing an administrative instruction.

Q Can you tell me anything about the commitment of foreign labor?

A In the spring of 1942, a Plenipotentiary General for Labor Commitment was appointed. That was Guleiter Sauckel. It was his task to control the commitment of all available manpower, including prisoners

of war and foreign workers. He was to take charge of all of the manpower that was not yet exploited in the German Reich, in the Protectorate, in the Government General, and in the occupied territories.

I believe the German entrepreneur had nothing to do with this action.

Q Witness, what sort of authority remained for the entrepreneur in regard to the regulation of labor commitment in his own plant?

A In questions concerning the hiring and firing of workers, he was not consulted at all. In order to expand the state control, employing more than 300 men in 1943 in enterprises, so-called labor-commitment engineers were appointed. These labor-commitment engineers were independent of the employer. They received their instructions directly from the chairman of the competent armament commission.

Q. Mr. Witness, in conclusion, may I ask you whether individuals or groups of persons in economy had a possibility, in view of the particular dictatorship that you have just described, of preventing measures of state functionaries in economy, or of refusing to comply with their instruction?

A. In my opinion that was impossible.

In conclusion I want to point to the resolution of the Reichstag dated 26 April 1942, the essential contents of which state, "Without being bound by existing legal provisions, the Fuehrer, in his capacity as the leader of the nation, as Supreme Commander of the Wehrmacht, as Government Chief, and as the Chief Executive, as the Supreme Court, and as leader of the Party must be able at any time to make it incumbent upon any German to comply with his duties and, after a conscientious check, it is found that this German has violated his duty, he must be able to impose the necessary and proper punishment on this German, without consideration of his earned rights".

DR. BERNDT: I believe the time has elapsed.

THE PRESIDENT: Any cross-examination?

CROSS EXAMINATION

DR. HELLMUTH VITS

BY MR. SPRACHER:

Q. How old are you, Mr. Vits?

A. 44.

Q. You were 29 years old in 1933, when the Nazis came to power;

is that correct?

A. Yes, 29; that's right .

Q. What was your position in any economic enterprise as of 1933, Mr. Vits?

A. I have already said that from 1929 on I was working for the Deutsche Revisions-und Treuhand A.G.

Q. That was a Reich Agency?

A. It was a company, the shares of which were held by the Vereinigte Industrie unternehmungen A.G., and by the Prussian state. In other words, it was controlled by the Reich and by Prussia.

Q. Yes, now, did you have any position in private industry in 1933?

A. No. But it was an auditing company, which just like any other auditor, checked many enterprises, and I was in constant touch with almost all large German enterprises.

Q. Now, with respect to the so-called organizations for the self-administration of Germany economy, did you receive any position in the year 1934, in any such organization?

A. Yes.

Q. What was the job?

A. I became the chief of the Sub-group Chemical Production of Fibres, and the Chairman of the Presiding Board of the Reich Synthetic Fibres, which organized the market of synthetic fibers.

Q. Had you held any position before 1933, Mr. Vits, in the

Reich Association for Germany Industry or its subdivisions?

A. No, that was not possible with the Deutsche Revisions-und Treuhand A.G.

Q. Now, what position did you get in 1943 or 1942 in the Speer organization, with respect to the economic regulation of German economy?

A. I did not have any position in the Speer organization.

Q. Did you become Chairman of the Reich Association for Chemical Fibers, (Reichsvereinigung Chemische Fasern) in 1942?

A. Yes, I have just said that. I was the Chief of the Subgroup and Chairman of the Presiding Board of the Reich Association for Chemical Fibers; but that was a Reich Association that had only the authority of regulating the market, and did not have the authority of the Coal Association, for instance.

Q. Now let's distinguish between two things. In 1934, you become head of the Fachgruppe fuer Chemische Fasern; is that right, 1934?

A. No, the Chemical Fibers -- In '40 and '41 I became Chief of the Fachgruppe fuer Chemische Fasern.

Q. Didn't you hold any position with that organization before 1939?

A. No.

Q. Now, did you become -- were you appointed -- a Wehrwirtschaftsfuehrer?

A. Yes.

Q. What year?

A. 1940.

Q. Who was the gau Economic Advisor (Gauwirtschaftsberater) for Duesseldorf?

A. That was Mr. Ammon.

Q. Did you receive a position in 1944 as a member of the Board of the Gau Economic Chamber in Duesseldorf?

A. I was on the Advisory Council of the Gau Economic Chamber when the Advisory Councils of the Gau Chambers of Commerce were taken into the Gau Chamber of Economy.

Q. Of how many economic enterprises did you become President -- I am not talking about being a member of the Board -- but Chairman or President of the Board, during the Nazi regime?

A. I was the Chairman of the Aufsichtsrat only in subsidiary companies of the Vereinigte Glanzstoffabriken -- for instance, Bemberg, Spinnfaseraktiengesellschaft Kassel, etc.

Q. At least half a dozen; is that right?

A. Yes.

Q. Did your organization, the Vereinigte Glanzstoff, (the United Rayon Company) have any license or cartel agreements with Farben in connection with rayon?

A. In the field of viscous fibers we were together in the rayon syndicate, and in the field of completely synthetic fibers we had a sub-license from the Dupont contract.

Mrs. SPRECHER: No further questions.

THE PRESIDENT: Any further questions of this witness?

You are excused, Mr. Witness.

We will not call another witness before recess, but if — just a moment —

DR. BERNDT: Mr. President, may I ask one more question?

THE PRESIDENT: Yes.

You had better sit down, Mr. Witness, on account of the microphone there.

RE-DIRECT EXAMINATION

DR. HELLMUTH VITS

BY DR. BERNDT:

I have only one question.

Q. The activity you carried out in the various agencies which the Prosecutor has just established, was that activity purely economic, or was that political activity, or was it mixed?

A. It was economic activity, and it was rather a matter of course that the head of one of the largest enterprises in that field should have such a position.

DR. BERNDT: I have no further questions.

THE PRESIDENT: Now, gentlemen, are you through with this witness? The Tribunal now excuses the witness.

Is there any member of counsel that can use about 2½ or 3 minutes to introduce a document or two?

DR. WAGNER: (Counsel for the defendant Wurster)

Mr. President, last week I announced that I would have one more

document.

In supplementation of my Document, Wurster Document No. 6, Exhibit Wurster No. 9 -- you may remember that I submitted a photo album, snapshots, and the Prosecution, and you, Mr. President, suggested that I might procure an explanation about the time when these pictures were taken. I now have this statement here in Wurster Document 330, which I want to offer as Exhibit 257. This document has not yet been translated. I talked to Judge Merrill the past week, and he suggested that it would be translated after it had been offered today. I believe that I do not have to make any further comment on this document; I shall hand it to the Secretary General.

THE PRESIDENT: Very well, Wurster Document 330, marked as Wurster Exhibit 257, is in evidence, subject to objection.

DR. SILCHER: I should like first to offer from von Knieriem Document Book IV, Document 26, which has been offered so far only for identification, as Exhibit 25; because the statement of Mr. Schmitz of 17 September 1945, which was contained in the so-called Cransberg memorandum, Prosecution Exhibit 334, was not stricken from the record, as a result of the decision of your Honors today, I now offer this as Knieriem Exhibit No. 25.

THE PRESIDENT: Knieriem Document 24 is received in evidence as Knieriem Exhibit 25, subject to the right to object.

DR. SILCHER: I beg your pardon, Mr. President, this was Knieriem Document 26, not 24.

THE PRESIDENT: Thank you.

MR. SPRECHER: We will have no objection to that document.

THE PRESIDENT: We do not have that document, I believe. Has it been processed?

DR. SILCHER: Yes, it is in Knieriem Document Book No. IV.

THE PRESIDENT: Very well.

DR. SILCHER: I next offer, on the general subject, "Responsibility of the Vorstand", three documents. Two of them are legal expert opinions of German jurists who are international authorities on this question; since they deal particularly with the pertinent German law and continental European law, I want to offer these legal expert opinions as exhibits.

Knieriem Document 39, which is a legal expert opinion of Dr. Walter Schmitz, attorney-at-law in Berlin, will become Defense Exhibit No. 278.

I next offer Knieriem Document 40, a legal opinion of Professor Egan Metzger of Munich, as Defense Exhibit No. 279.

Knieriem Document 41 is an excerpt from minutes of the meetings of the Bavarian Academy of Science. From this excerpt the qualifications and authority of Professor Metzger can be seen. I offer this as Defense Exhibit 280.

THE PRESIDENT: Thank you.

The Tribunal will rise for its recess.

(Tribunal in recess until 1045 hours.)

THE MARSHAL: The Tribunal is again in session.

DR. RUDOLF DIX (On behalf of Defense): I was just told that the Tribunal wanted to be informed if there is still a ruling outstanding to be made by the Tribunal with respect to which it has not spoken this morning or with respect to which it hasn't stated it would be considered in writing its judgment. There's only one long motion, signed by Professor Wahl and myself, concerning the jurisdiction of the Tribunal to which there is a twenty-two page substantiation annexed. I think it is still with the Translation Division, and since a number of questions have been put to me from the Translation Division I am sure it hasn't returned yet. This motion is somewhat in connection with the so-called Robinson motions.

DR. SILCHER: Your Honor, the Secretary General informed me during the recess that there was an error in the defense exhibit numbers before. The three defense exhibits must be assigned different numbers. Therefore, von Knieriem Document 39 will not be Defense Exhibit 278 but 280. Document 40 will not be 279 but 281. Document 41 will not be 280 but 282.

THE PRESIDENT: Thank you, Dr. Silcher.

DR. SILCHER: Furthermore, I should like to announce a stipulation which I made with the Prosecution about the so-called Gransberg note, Knieriem Document 26, Knieriem Exhibit 25. It was my intention to call Mr. von Knieriem into the witness stand and have him confirm, under oath, that the contents of this note are correct. In the meantime, however, I have stipulated with the Prosecution to the effect that Mr. von Knieriem would say in the witness stand the very same thing as he has stated in

this note and that this note, therefore, can be evaluated in the same way as a statement by Mr. von Knieriem under oath.

MR. SPRECHER: That's correct, Mr. President.

THE PRESIDENT: Very well. That disposes of that matter. Now, have you anything further on behalf of Dr. von Knieriem?

DR. SILCHER: No, nothing else, your Honor.

DR. GIERLICH (Defense Counsel for defendant Schmitz): Your Honor, I have a few more documents to present which deal exclusively with Prosecution documents which were introduced either in the rebuttal book or on the occasion of the cross examination of defense witnesses during the last week or ten days. For technical reasons, the mimeographing was not yet possible. I am in a position, however, to submit the original documents to the Secretary General now.

First I should like to introduce Schmitz Document 111, Schmitz Exhibit 111. The presentation of this document has become necessary as a result of the introduction of Prosecution Exhibit 2304 in the cross-examination of the witness Dr. Krueger.

I then submit DAG Document 36 as Defense Exhibit 283, commenting on Prosecution Exhibit 2340, introduced in the cross-examination of the witness Dr. Schmidt.

I further submit DAG Document 37, which is in reference to Prosecution Exhibit 2341, introduced in the cross examination of Dr. Schmidt by the Prosecution.

Your Honor, I should like to have your permission to state, very briefly, the contents of that document, because I have to make a motion in

connection therewith.

THE PRESIDENT: We'll hear you, Doctor.

DR. GIERLICH: I ask that the part of Dr. Schmidt's cross-examination which refers to this Prosecution Exhibit 2341, be stricken from the record for the following reasons: As becomes apparent from DAG Document 37, an affidavit of Franz Anton Gierlicks, Prosecution Exhibit 2341, which was put to the witness Schmidt in cross-examination, was not identical with the actual original document. The witness, when comparing the document which was submitted to him with the original document, located in the files of DAG, found that there are a number of deviations. I shall quote the relevant passage: "The comparison of the original with the copy submitted by the Prosecution on 30 April 1948, has the following important deviation, in addition to five others: Paragraph 5 of the original reads: The account of the Limited Company for the Exploitation of Chemical Products, the G.m.b.H.; has assets of 68,838,000. Paragraph 5 of the exhibit which was introduced reads as follows: 5. The account of the Limited Company for the Exploitation of Chemical Products, Farben has assets of 68,000,000." In this passage, instead of G.m.b.H. (Verwertchemie), Farben has been put. Counsel for the Prosecution cross examined the witness on that basis and put matters to him which referred to Farben as being active in financing the Verwertchemie. This cross examination was based upon a document which was not in accordance with the original, and I therefore make the motion to strike from the cross-examination of the defense witness Dr. Schmidt those passages which refer to Prosecution Exhibit 2341.

THE PRESIDENT: What does the Prosecution have to say with reference

to Dr. Gierlichs' statement?

MR. SPRECHER: We're somewhat taken by surprise. I don't know the nature of the new document which is offered. I still don't understand how it changes the other document which came from DAG Files, but even if that were so, it seems to us that that could be corrected only by Your Honors' taking that into consideration rather than by striking it. The whole examination of that witness, as I am informed, was a very interesting examination, and I think, unless we were to reopen his hearing on the whole point, that it would be improper to strike the exhibit.

THE PRESIDENT: Did I understand, Dr. Gierlichs, that you intend to file a formal motion in addition to your oral motion, or were you just expecting to present it orally for our ruling?

DR. GIERLICH: It was my intention to confine myself to the oral motion, taking into consideration the necessity of speed. If, however, the Tribunal would like a written motion I am prepared to do that.

THE PRESIDENT: The Tribunal would not feel free to rule on this matter without some examination of the record, and because of the many details that confront us, I think we will take the liberty of asking counsel for both sides to give us an informal memorandum setting forth your views with respect to this matter. You need not go through the trouble of having your documents processed. If you'll hand them to some member of the Tribunal and just very briefly give us the references and the positions that you take with respect to it, we'll undertake to rule just as promptly as possible after we receive your views.

MR. SPRECHER: Mr. President, may I ask that Dr. Gierlichs give us his memorandum, because we are naturally helpless to do anything on the basis of his statement, which I can assure you I don't understand at the moment, and since Mr. Amchan handled the witness in question before the Commissioner, he would have to reply to Your Honors in that connection.

THE PRESIDENT: That goes for both of you. Please exchange your memorandums with each other.

Now, Dr. Gierlichs, before you get away or on to something else, as I understood, the last document that you expected to offer now was DAG Document 37?

DR. GIERLICH: Yes, your Honor.

THE PRESIDENT: What exhibit number do you wish it to bear?

DR. GIERLICH: Defense Exhibit 284.

THE PRESIDENT: Thank you.

DR. GIERLICH: The next document is DAG Document 38, which will become Defense Exhibit 285. This comments on the two documents in Rebuttal Book 92, DAG Documents 15162 and 15163.

The next document is DAG 39, Defense Exhibit 286.

The last document is DAG 40, Defense Exhibit 287.

THE PRESIDENT: Gentlemen, before we hear any other defense counsel, let us inquire if counsel for the defendant Haeffliger is ready to present his matter of having the defendant testify? We are a little concerned about it because of the state of health and the physical condition of this defendant. We don't want to burden him, to keep him in the court room longer

than he should be here. What is your disposition, counsel?

DR. SIEMERS: I am quite ready, your Honor. I didn't want to be impolite to the other gentlemen, but I would prefer it if I could examine Mr. Haeffliger now. With the permission of the Tribunal, I want to hear two defendants: Dr. Ilgner, and Mr. Haeffliger. In view of his state of health, I would rather hear Mr. Haeffliger first.

THE PRESIDENT: The defendant Haeffliger may take the witness stand.

In the meantime, Dr. Siemers, would you mind giving the Tribunal the benefit of a statement of the scope of your examination of this defendant, so that we can understand within what limitations the examination should be confined?

DR. SIEMERS: I should like to ask the witnesses whether in the interrogations at Frankfurt in 1945 pressure was exerted on Dr. von Schnitzler. As a result of this fact I want to bring out that he did not give his affidavits voluntarily. The affidavits of 1945 are the basis for the affidavits of 1947. I should like to ask Dr. Ilgner, in addition, how the manner of interrogation at Nurnberg affected Dr. von Schnitzler. Mr. Ilgner is the only one who saw Dr. von Schnitzler during the time in question. I shall confine myself exclusively to that field, and I shall put no other questions. I am only going to refer to the subject which has come up during the last few days again.

MR. SPRECHER: Mr. President, I am afraid this raises what I anticipated when I mentioned yesterday that I thought a foundation was being laid for some further testimony.

To what does Dr. Siemers think this is in response, and how does this differ from what your Honors stated was not within the scope when the original motion of Dr. Siemers was laid before Your Honors? The Prosecution's affidavit of the witness Wolffsohn had to do with whether or not, in the year 1947, the defendant von Schnitzler at that time, in talking to representatives of the Prosecution, indicated that he felt any duress -- any type of pressure in statements he made with respect to his friendliness with the principal interrogators in 1945.

It seems to us if this subject is reopened that then we will have to hear from the 1945 interrogators, and we have some letters in that connection which we certainly would want to present if this whole subject is reopened. We didn't understand that Your Honors had opened the door on this matter, and we would think it was somewhat out of line with your earlier ruling on the matter.

THE PRESIDENT: The earlier ruling, may I say, without indicating what the Tribunal may think about the matter, was predicated upon a showing of the fact that the defendant involved had made a statement in 1947. As I recall as I said yesterday, it is my understanding that we ruled that whether or not there was any pressure exerted in 1945 was remote and did not relate to the subject that we were then considering, and that is the admissibility of a document of a date two years later. However, since that

time there has been a good deal said on the record here about statements made or a statement made much earlier than that, back in 1945, and that presents a somewhat different problem. Just a moment, and I will confer with my associates and see what our policy is here.

Gentlemen, the Tribunal has reached this conclusion: First, as to the defendant Haeffliger, who is now in the witness box: at the request of counsel, the Tribunal arranged for his presence here this morning. We know, from what has already transpired in this case, that he is not well — that he has been spending most of his time in the hospital. If he is to be interrogated about this matter, we think, in fairness to him, it had better be done now rather than later, and have him brought back to testify. We will hear the testimony of the defendant Haeffliger, who is now available.

But, as we indicated yesterday, we shall not, in the closing days of this evidence, go in further into this subject of whether or not the involved defendants were under pressure or coercion when they made statements. If, as has been indicated by counsel for the defense and by the prosecutor, further evidence is to be presented on that issue, we shall make a special reference to a commissioner to hear that matter fully and to report the evidence that he takes at or prior to the time of the commencement of the argument in this case, and it will then be made a part of the record and considered by the Tribunal to the same effect as if we had heard it in open court. That applies to any defendants who may wish to testify on that subject and to any evidence that the Prosecution may wish to produce on the subject.

DR. RUDOLF DIX: Mr. President, I have a few questions to put, not to Haeffliger but to Ilgner. They touch upon the field of which you just said that you would refer it to the commissioner. The questions I am going to put to Mr. Ilgner will be typical questions in reference to a rebuttal document of the Prosecution, the rebuttal document affidavit of Wollfsohn. I don't think it would be expedient to refer to the Commissioner a few questions by the defense in reference to a rebuttal document which has been submitted in open court by the prosecution. These questions would take only a few minutes. Before putting the questions I shall explain to the Tribunal what my view is and why I have come to the conclusion that the question I am about to put is in direct connection with the Wollfsohn affidavit. I would appreciate it if the Tribunal would hear my brief explanation to that effect and then decide upon the admissibility of the question.

THE PRESIDENT: Dr. Dix, if your interrogation of the defendant Ilgner was the only matter in connection with this subject that we would be expected to hear, that would present quite a different consideration. But we have no assurance as to how far this inquiry may go, and certainly the Prosecution is entitled to present its evidence on the subject.

The line must be drawn somewhere, and the logical place to draw it, it seems to us, is to permit the defendant Haeffliger to be interrogated, since he is here and not a well man, and to make the services of the commissioner available to counsel for continuing the interrogation. We, of course, realize that counsel sometimes attach some significance to the fact that they would prefer to produce a witness before the Tribunal rather than a commissioner, but I do not think you need to disturb yourselves about the evidence not receiving the same consideration if the commissioner hears it as if it was before the Tribunal in bank.

As I said before, if we had an assurance that the only extent of this inquiry would be a few questions of the defendant Haeffliger and a few questions directed to the defendant Haeffliger, we would hear you. But we start on that subject and we may not be able to conclude it within the time available.

It seems to us that the better thing to do would be to do as we have indicated — permit this defendant Haeffliger to be interrogated, because he is present here and we do not want to impose upon him the physical burden of making another trip back to the commissioner hearing. And then, as to the defendant Ilgner or any other defendants or any other witnesses

that the defense wish to produce on this subject or that the Prosecution wishes to have heard, we will have the commissioner hear it and report the evidence as heard to the Tribunal. Dr. Siemers, you may proceed to interrogate the defendant Haefliger.

DIRECT EXAMINATION

BY DR. SIEMERS:

Q.- Mr. Haefliger, when were you born?

A.- 19 November 1986.

Q.- When and where were you arrested?

A.- In Frankfurt on 11 May 1945, exactly.

Q.- That was three years ago today?

A.- Exactly.

Q.- Have you been in custody since then?

A.- No. At the beginning of November, I think, I was released. That was November 1945. Three days later I was rearrested. A week later, upon an application about the deterioration of my health, I was released into house arrest in order that I be treated there. On 27 December I received the official notice of my release which, as I thought, was final. One year ago -- no-- I was told not to move away from Frankfurt and during that time my movements were restricted. In April 1947 I was brought to Nuernberg. I was not told whether I would come here as a defendant or as a voluntary witness. At any rate I was permitted to stay in private quarters until the end of April. I felt that I was merely to be used as a witness. On 1 May I was transferred into the prison, to my surprise, and I was indicted to-

gether with the others in the Farben trial.

Q.- I am particularly interested in 1945. I am interested in the time from 11 May 1945 to November 1945. Where were you imprisoned at that time?

A.- At first, after my arrest - and I should like to emphasize that what I am about to testify is of course in a certain connection with the time immediately preceding that date. Only then can one comprehend in what a state we were at the time when we were first interrogated about Farben. You can only understand that when the entire background is explained. On 11 May I was suddenly, to my complete surprise, arrested, and I shall never forget, the experience I had then. It came out of the blue.

The official, I think a CIC man, a Mr. Sachs or Mr. Hoinings - they didn't give us their names - confronted me with a terrible wave of hatred. He said, when I pointed out to him that I had dual citizenship, that I was also a Swiss national, that that made no difference in his attitude towards me. He was actually right in one respect.

Before that, in my capacity as official adviser to the Swiss Consulate at Frankfurt, I tried to find out from the military government about the legal status of the Swiss people located in my area. The legal advisor of the military government, a Major Henderson, told me that according to the Hague Convention, residents of foreign origin in an enemy country are to be treated in the same way -

Q.- Mr. Haefliger, you must excuse my interruption. In view of your state of health, however, I don't think we should extend the examination too far. On the other hand, I want to keep my promise to the Tribunal to hear you only about those matters in which we are interested here and I

am sure you want to help me. I therefore would be grateful to you if you would not make any exact statements about these matters now but try to be as brief as possible and try to answer my questions as briefly as possible.

THE PRESIDENT: Just a moment, please. I think perhaps after all, Dr. Siemers, the responsibility is really on your shoulders to keep the inquiry in the proper limits. Now, we understood that you wish to interrogate this defendant concerning the matters that were brought out on the Wolffsohn affidavit, and if you would be good enough to ask specific questions along that line and confine the inquiry to the proper subject matter, I think it will perhaps help us.

BY DR. SIEMERS:

Q.- Mr. Haefliger, I will ask you again. Where were you in Frankfurt when you were arrested, and where were you sent?

A.- After my arrest I was put in the Gutleut Kaserne. I was placed in a room there where Herr von Schnitzler and Herr Frank-Fahle were already. They had been arrested a few days prior to that date. The Kaserne was full of bugs and in a very dirty condition. The food —

Q. Dr. Haefliger, did you see Mr. Sachs at that time?

A. Mr.?

Q. Mr. Sachs.

A. No.

Q. Mr. Haefliger, had you been interrogated at that time?

A. I was interrogated by Sachs on the occasion of my arrest, and he threatened to deliver me up to the Russians because I was a Swiss. He said that if I wanted to insist on my Swiss nationality — he pointed out to me — that there were no diplomatic relations between Switzerland and Soviet Russia. I pointed out the protection which I could enjoy in view of my capacity of being attached to the consulate.

Q. Mr. Haefliger, excuse me; I am not entitled to discuss those legal questions now, but only the attitude of the interrogators. When did Mr. Sachs threaten you with being handed over to the Russians? Was that on the 11th of May?

A. Yes.

Q. When you were at the Gutleut Kaserne together with Schnitzler and Frank Fahle, did they continue to interrogate you?

A. No, I was not interrogated then.

Q. Do you remember when you were sent to Preungesheim?

A. Yes, in the beginning of June.

Q. How long did you stay at Preungesheim?

A. Preungesheim is a penitentiary. At that time I had been cleared of Germans and it was a military prison for American soldiers who were serving sentences there.

Q. With whom did you live at Preungesheim?

A. I didn't live there. I was imprisoned. It was a penitentiary, and I was in solitary confinement. Mr. von Schnitzler was my neighbor on the right and on the left was Frank Fable. Later a few other gentlemen were added, amongst them Dr. Gierlich, Dr. Bachem, Mr. von Haydor, Mr. Borgwardt, and a number of other gentlemen -- I think eleven or twelve.

Q. Did you regularly see Schnitzler and the other gentlemen from the beginning of June until November?

A. I could see them only when we could leave the cell, which was, however, prohibited for weeks. Then I saw them in the truck which took us to the Taunus Anlage, the building where we were interrogated and where we had to work during the day on various statements. In that Taunus Anlage I was in a room with three other men, whereas Mr. von Schnitzler was separated from us.

You must understand that we were under a very strict prohibition against speaking to each other. That was very strictly observed in the prison. When after weeks I was called by the interrogator for the first discussion, I was so confused and so numb that I was practically unable to make sense. I had lost my entire memory and I could hardly recognize my voice. Mr. Weissbrodt noticed that.

Q. Who was Mr. Weissbrodt?

A. Mr. Weissbrodt was one of the interrogators. Since my testimony was so confused, he directed that I repeat the entire matter the following day, and he said that there were ways and means to refresh one's memory. I must say that the later interrogations with Mr. Weissbrodt were far more

correct; his first assistant, Mr. Devine, was, as far as I was concerned, quite beyond reproach; but the treatment in the prison was quite horrible. It naturally oppressed us and naturally made us completely obedient and made us ready for everything that was asked of us.

Q. Mr. Haefliger, in summary, would you please sum up the conditions and the methods employed in the penitentiary of Preungesheim, but only mention the essential points and those points which, as far as you know, concern Dr. von Schnitzler, too, generally or specifically.

A. After we were transferred to Preungesheim in June, we were at first treated quite well there. That was because our supervising officer was Major Hoyer, who was a southern gentleman and many of the alleviations which we enjoyed for two weeks were due to him. Afterwards, Major Hoyer was transferred. We had our own ideas about this, but these are merely assumptions. At any rate, immediately thereafter a change occurred. Instead of being allowed to eat outside in the mess we were locked up and we were given our rations.

At that time the corporal -- I think Logan is his name -- who was in charge of the prison administration ordered us to step outside the cell doors each evening and told us to stand at attention. He said that our faces were to be straight ahead, neither turned to the right or to the left. He told us that as far as he or the prison was concerned we were no mandatory prisoners or detained persons; we were just war criminals. He said that he would treat us accordingly. He then continued to speak English, but we all understood English.

He said: "I will rejoice to see the day when you are hanged on the

highest tree in the courtyard and especially, you, Mr. von Schnitzler. Did you understand it? Did you get it?

Herr von Schnitzler, who is hard of hearing, raised his hand and said: "No, Mr. Corporal, I didn't get the last sentence."

The corporal was flabbergasted and thought it was a joke. Frank Fahle, who had some sort of trusty position, had to repeat what the corporal had said. Frank Fahle had to repeat: "Mr. Corporal said he would rejoice to see you, Mr. von Schnitzler, hang on the tree in the courtyard."

He then told us that it was all over with warm meals, and that as long as he had any say there we wouldn't get any more hot meals. Then he continued addressing one after the other: "Have you got a son?" "Yes. What is he doing?" "He has been shot in the war," said one. "Very good." He asked another. "I've got two sons and a son-in-law. Two injured, one dead." "Very fine." Then he turned to Frank Fahle and asked him: "Have you got a son?" He said: "Yes, he is two years old." He said, "It is a pity he isn't older and he hasn't been shot, too."

I shall never forget that — such inhumane treatment. As I said, we were strictly prohibited to speak. We were used for the lowest work, and the most dirty work. I was treated a little better because of my physical condition was even worse than it is now, but they had it in for Mr. von Schnitzler. He was considered to be the big shot and was treated accordingly. The way we were addressed by the guards, with the open approval of the higher officers — the wildest language you can imagine. "You have been the big shots — you are big —", I don't pronounce it, but that was mild.

We were stopped, when we were led out of the interrogation room. We had to run returning from the interrogation rooms at the Reichs bank and we were received there accordingly.

At night one could hear terrible screaming. We all knew what the reason was. That was not us. Those were Nazis who had been sent there, and who were merely transients.

I often observed von Schnitzler at that time. I saw him on his bare knees scrubbing and washing the floor with a brush. I saw how he was standing on a table and brushing the ceiling, and I heard how for hours these men were driven by shouts. I didn't have to do that work because of my physical condition.

Whenever I passed von Schnitzler's room and looked through the peephole I saw von Schnitzler lying there apathotically on the hard wooden bench. We were not permitted to put a blanket onto the cot for him. He had to lie on the boards. I was given a few blankets because of my physical condition.

Quite different, however, was the treatment by the interrogators. They became very correct and very friendly. Of course, we felt the difference and were grateful to get away from that hell and be treated well during the day.

I don't know who started it; these are merely assumptions; but it was a very bad spirit who had to decide on these matters.

We had to stand outside the cells two or three times in the evening and about thirty government officials were standing with us who had been sent into the prison together with the Farben men, and we were told while standing at attention that they were not satisfied with us during our interrogations at the Reichsbank and that, if we didn't improve, our rations would be cut and we would be treated worse. Well, at any rate, the rations were cut, and all the decent food was taken away from us, and sometimes we had nothing but biscuits.

But, at any rate, we suddenly found out that in spite of the contrary assurances of the interrogators, our treatment in the prison did change. Whether that was due to our interrogators or to other people, I can't say, but we couldn't put any questions; we couldn't ask. We hardly know the names. I never knew what was going on. We had no idea about anything. At any rate, we were under the impression that there was some sort of a connection there.

To explain the cruelty of that type of arrest, to explain the disintegrating effect which, of course, expressed itself in one way or another in different cases - for instance, on 13 October I wrote to Mr. Davino, who was friendly to me, in English:

"Sir, I am beginning to despair of justice. As long as there was a plausible reason, one could make out for a detention, although never pronounced officially - namely, the investigation against the I.G. - you could bear your lot with more or less patience and equanimity; but now, as this investigation has come to a close for some time already and this

reason is no more existing, this inner hold has gone, too, and you feel like fighting with ghosts. You are being put to a permanent mental torture, which is the severest ordeal possible. Even a criminal is entitled to know of what he is accused and has the right to defend himself or to call for his assistance before he is condemned, but this primitive human right seems to be denied us.

"How long is this torture still going to last? Surely, this cannot be the conception of those in power for the establishing of a new order in the world which was declared and which everyone was hopeful to be one of justice and respecting human rights. I therefore, still hang to the hope that a turn for the better will soon take place."

This only shows that any intelligent human being would feel this mental torture more than beating, not knowing why they were there, what they were charged with. We knew nothing. No information was given us. I asked that one should hear the vice consul on my behalf, but that was never done. We had no rights whatsoever. We were completely forgotten.

THE PRESIDENT: Just a moment, Mr. Defendant. I think you have talked enough now, for your own good and for ours, without your attention being directed to some particular subject by counsel for the defense.

Ask your next question, Mr. Defense Counsel.

Q Mr. Haefliger, those matters of which you just spoke: did you communicate them to one of the interrogators at that time? Did you make any indication to that effect?

A No. Naturally, we complained sometimes. They promised us: "Yes,

well, we can't do very much, but we'll try"; and when the food was temporarily very bad the interrogators permitted us to receive parcels from the members of our families who themselves had very little, but that had to go to the Reichsbank and we had to eat it there, because nothing could be taken back into the prison.

Q Mr. Haeffliger, you said that Corporal Logan, if I understood you correctly, told you once that the interrogators had complained, and he threatened you with strict measures, the cutting of rations, etc. During that threat and during that announcement was von Schnitzler present? Do you remember that?

A At that time we had changed floors. Schnitzler sometimes went to interrogations. I'm sure he must have been there. Well, we really couldn't turn around. We couldn't actually find out whether our neighbor was there or not, but I assume he was there. I am sure that many will remember that scene.

Q You were saying that you were driven at your work. Who drove you when you were cleaning floors, etc?

A The American prisoners, the trusties — I don't know what they were. At any rate, they were imprisoned there because of some crime, and the guards used them to help guard us. There were colored and white Americans.

Q Were these American prisoners appointed as your guards and superiors in the prison during your work?

A They had the same authority as any other guards. They could drive

us to the work, and they could also tell us at what speed we were to do it.

Q May I ask you to tell me what impression Dr. von Schnitzler made in the course of these months, from a psychological point of view?

A Already in the Gutleut Kaserne he made a completely apathetic impression. For hours and hours he was lying on his cot at the Kaserne, not moving. I know that he was interrogated for the first time before his arrest by Major Tilley, who also appeared here as a witness. I was in the anteroom. He came out and he was completely shaken. He came out like a man who was looking into an abyss. He was absolutely shocked.

We had discussed this matter beforehand and we knew that the American soldiers would come; that we would be under strict control and that we would be subject to giving answers, but we were absolutely willing to help and do everything that was asked of us with respect to information, etc.

Consequently, it was absolutely incomprehensible to Mr. von Schnitzler to be suddenly confronted with this revelation that everything would go a different course than he originally imagined; obviously that shook him terribly and impressed him and had an effect on him.

Q Mr. Haeffliger, as far as you could tell, was Herr von Schnitzler treated very badly in that penitentiary? You said all were treated badly, but was any difference made or not?

A Obviously, Herr von Schnitzler was considered to be the most prominent one of the lot, and they were particularly severe with him. At the slightest irregularities he was locked up again. Sometimes the door was left open for two or three hours but then it was locked again and if

11 May 1948-M-DJG-12-5-Primeau (Rariler)
COURT VI, CASE VI

there was a check of the coll and if everything wasn't quite as it should be — and, mind you, Schnitzler wasn't all too dity — he was always punished. We know about it. We discussed it. We all said they had it in for Schnitzler. We could feel it; we could see it.

Q. Mr. Haeffliger, I don't want to ask you about any more details, especially in view of your state of health. In conclusion I should only like to put one document to you.

DR. SIEMERS: Your Honors, this is Schnitzler Document 27, which has been in evidence for identification as Exhibit 37, in document Book 2. It is an affidavit of Mrs. von Schnitzler about the time, on Saturday, 16 of June, 1945, when she wanted to visit her husband and was then arrested under very unpleasant circumstances and held in prison. The Tribunal will recall that in connection with that document I was given the opportunity to prove its connection with the defendant.

Q. Mr. Haeffliger, would you be good enough to tell me whether you learned of this incident at the time and whether you know that Mr. von Schnitzler, during his arrest at Preungesheim, knew of it too?

A. Yes, Mrs. von Schnitzler tried particularly hard to intervene on behalf of her husband. For that reason she became awkward to a number of agencies. She was supported by Major Heyer at first, and then there was the change. But we knew about that as Preungesheim because on the way to the Reichsbank we could talk a little and ...

Q. Mr. Haeffliger, I don't think we have to go into all these details, I only want to know whether at that time, in June, or at any rate shortly after the incident, this incident of the arrest with all the unpleasant circumstances became known to Schnitzler.

A. Yes; naturally.

Q. And then I want to know whether from your conversations with Schnitzler you gained the impression that this incident particularly

oppressed him or affected him in any way?

A. The incident was generally known and was also known to him. It is quite obvious that his mood was no better afterwards. He was depressed as it was, and his condition became worse.

DR. SIEMERS: Thank you. I have no further questions.

THE PRESIDENT: Does the Prosecution wish to cross examine?

R. SPRECHER: No questions.

THE PRESIDENT: Any other questions from counsel for defense? Since there is not, the witness is excused from further attendance, and the Marshal will make arrangements for his proper care.

WITNESS: May I say one thing? I don't like to be called a seriously ill man. I am suffering from an illness and I need treatment, but I don't want to create the impression here that I am a very sick man.

THE PRESIDENT: Very well. We will give you the benefit of the doubt of that, Mr. Defendant. You may step aside. (Witness Haeffliger excused).

DR. SIEMERS: Mr. President, since Mr. Haeffliger has been heard, I should now like to revert to the preceding question, for purposes of further evidence with respect to that matter. I should like to point out the following: This subject was brought up by me on the first day of the trial of the Farben case. We now have one but the last day of the presentation of evidence. This presentation of evidence could have been carried out by me in a far better and far more extensive way had been permitted to do so at that time. It is not my fault if I am forced to bring this evidence now, at the end of the proceedings.

I may recall that the Prosecution in their rebuttal evidence suddenly

produced a document, an affidavit of Mr. Wolffsohn, which is in opposition to the document which I introduced on 2 September 1947. The Prosecution could just as well have submitted that document earlier because Mr. Wolffsohn was always present. They have only done so now, and it is only for that reason that I have to introduce this evidence at this time.

Your Honors, how important this evidence is can be seen from the difficult legal questions which arise from these affidavits. How difficult they are can be seen from the fact that the Tribunal itself did not agree with respect to the evaluation of these affidavits.

I therefore ask your permission.....

THE PRESIDENT: Dr. Siemers, I fear you are encroaching upon the domain of argument again. There is nothing now before the Tribunal. We are concerned in hearing witnesses which we have said we would hear and in affording you gentlemen of the Defense an opportunity to complete the presentation of your documents. We have set aside eight days in which we shall do nothing but listen to argument, and I think that under the circumstances we had better ask you not to trespass on that territory.

DR. SIEMERS: Your Honors, I am only saying this because I want to ask the Tribunal to enable me to hear Dr. Ilgner this afternoon or tomorrow in court so that you may be given the entire picture. These questions are very difficult and it isn't very easy to prove the psychological pressure under which my client was, and I think the Tribunal must be given some picture by the witnesses who testified to that effect. That is why I am asking you that this examination be permitted in this courtroom if it is at all possible, particularly since it arises from the rebuttal

document of the Prosecution.

THE PRESIDENT: Dr. Siemers, the Tribunal has ruled and, of course, you do have a right in the discretion of the Tribunal to ask for a reconsideration of the ruling. There is nothing unusual or unprecedented about that. But one thing I think I can positively state to you. The Tribunal will not reconsider that until all these other matters are out of the way and we see whether we have some time.

Now, we must give preference to first matters and Dr. Hoffmann was supposed to have had the possibility of having a witness here today, and we still have not quite completed half the call of the defendants for the introduction of additional documents. And then we have a few odds and ends of miscellaneous matters to take up. We will proceed along that schedule and reconsider that matter if there is any time left for it.

DR. SIEMERS: Thank you Mr. President. I should merely ask you whether I could use the time before the recess to present my document Book 10, which was missing yesterday but, as I have been informed, has been distributed in the meantime.

THE PRESIDENT: Yes; you may do that, Dr. Siemers.

DR. SIEMERS: Document Book X concerns Francolor in its entirety. Schnitzler Document 178 is Exhibit 203. It concerns the Gallus Contract. Document 179 will become Exhibit 204.

Document 180 is the Franco-German cartel agreement, Exhibit 205.

Document 181 is the cartel agreement Between the Continentales Farbstoffkartell and the Imperial Chemical Industries, Exhibit 206.

Document 182 will become Exhibit 207, the contract between the Polish

Group, Farben, and the French and Polish factories.

Document 183 is an affidavit by Alfred Hoffmann, Exhibit 218.

Document 184, an affidavit by Dr. Michel, 209.

Document 185, a letter from Frossard, who was repeatedly mentioned here. That will be Exhibit 210.

I ask you to strike out 212.

Document 186 will become Exhibit 211, an affidavit of Dr. Hans Kuntze on the French government people.

Document 187 will become Exhibit 212. That is an affidavit by Dr. Berndt.

Document 188 will be Exhibit 213, an affidavit by Walter.

Document 189 will become Exhibit 214, a questionnaire sent to Koechlin. This document contains only the questionnaire.

In the meantime, your Honor, the reply to that questionnaire has been received, and I should like, therefore, to submit that document together with those others which have not as yet been translated, but first of all I shall complete the presentation of the documents which are available now.

Document 190 will become Exhibit 215.

Document 192 will be Exhibit 217, an affidavit of the attorney, Silcher.

Document 213 will be Exhibit 218, an affidavit of Walter Ludwigson, on Alsace-Lorraine.

That brings us to the end of that document book.

Your Honors, I now have only a few documents which haven't yet been

translated. Altogether there are five documents. Since I have to comment briefly on these documents, in view of what the Prosecution has said, I fear that I shall not be able to do so before the recess.

THE PRESIDENT: Very well. The Tribunal will rise until one-thirty.

(The Tribunal recessed until 1330 hours, 11 May 1948.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 11 May 1948)

THE MARSHAL: The Tribunal is again in session.

DR. FLAUCHNER: (Counsel for Buetevisch): Mr. President, may I request my client to be excused at four o'clock to attend the examination of the witnesses before the Commissioner?

THE PRESIDENT: Yes, counsel. Will the Marshal please take care of that? See that Dr. Buetevisch is sent to the Commissioner's hearing at four o'clock.

DR. SCHUBERT (Counsel for defendant Buergin): Mr. President, would you permit me to ask those few questions that I have in regard to a few rebuttal documents of Dr. Buergin?

THE PRESIDENT: Dr. Buergin, you may take the witness stand.

DR. BUERGIN, a witness, took the witness stand and testified as follows):

MR. SPRECHER: Mr. President, we are having difficulties in carrying on before the Commissioner, and the next witness announced, Mr. Munch, we understood would be put on now so the people could get back to the Commission. Mr. Minskoff is here for that purpose and I think it would straighten away the Commission hearing if we could go on with that matter rather than having matters presented which would lead to a postponement of the Commission again.

THE PRESIDENT: How long would it take you, Dr. Schubert?

DR. SCHUBERT: It will take only a few minutes, perhaps ten minutes,

14312



in my opinion.

THE PRESIDENT: Very well. We will take that next, right after this examination.

DR. SCHUBERT: Mr. President, two documents are concerned; the first is in Rebuttal Document Book 94, Exhibit 2244, a letter of the Supreme Command of the Navy of the 11th of February 1939 to the firm of Schicher, in Elbing, a copy of which was sent to the Farben firm of Bitterfeld. These are superstructures for torpedo boats constructed from light metal.

DIRECT EXAMINATION

DR. ERNST BUERGIN

BY DR. SCHUBERT:

Q. Dr. Buergin, do you know of this event?

A. I don't remember having heard anything about this minor business transaction.

Q. The copy which was to be sent to the Farben enterprise in Bitterfeld was directed to the Department, Light Construction. What is that?

A. This was the department which was in charge of an engineer, Derritter, was an advisory agency for those consumers of light metals who used aluminum or magnesium alloys in the production of new things, or in the use of light metals instead of other materials. The department turned over the experiences of Farben to the interested parties and made it possible to those people to adapt the construction to the particular properties of light metal.

Q.- Dr. Buergin, could such superstructure for torpedo boats, or even ready parts for these superstructures be already constructed in Bitterfeldt in 1939?

A.- Not normally, because Farben had no machinery for these products and did not have the necessary personnel; but from the document it can be seen quite clearly that the Supreme Command of the Navy itself did not quite know whether the delivery of readymade parts by Farben was possible or not.

Q.- Dr. Buergin is it correct if I assume that light metal sheets would have been necessary for such superstructures?

A.- Presumably light metal sheets would have been necessary, but I do not know the construction itself.

Q.- Were such sheets produced in Bitterfeld?

A.- Not by Farben in Bitterfeld.

Q.- Do you then maintain your earlier statement that Farben Bitterfeld produced elektron and Hydronalium only as bulk and semi-finished products?

A.- Yes, I do, and I emphasize once more that the bulks which were for Farben constituted by far the majority of the magnesium alloys that were produced.

Q.- The Prosecution offered that document to prove that Farben, Bitterfeld, was well informed about the use to which those light metal that they produced were to be put; what can you say about that?

A.- This conclusion cannot be drawn, in my opinion, from the document. At best the use of only several hundreds of kilos is concerned in this do-

cument. I have already stated that the Department of Light Construction was an advisory agency, to advise the producers of light metal products.

If any new product was to be started from light metal, then the producer in question probably got in touch with this Department frequently to profit from the experiences and perhaps experiments that this Department had conducted in its apprentice shop; but that is as far as Farben's participation went in this event. Whether anything came of this particular construction or not, the leadership of Farben learned in the rarest of cases, for as I have already stated, we produced primarily bulk and semi-finished products, and if any order given did not effect an increase of production, such requests did not influence the business at all.

In other words, if for instance, - and this is something I do not know, - actually superstructures were constructed from light metal for torpedo boats, then the latter would have been produced by the Schichler-Warf, or by other producers, and Farben would have made available the necessary alloys or semi-finished products in the shape and size usual on the market.

I have already stated that we did not produce sheet metal ourselves. It was our principle not to compete with the purchasers of our barells of semi-finished production in the sale of these products. Thus, for instance we supplied our own requirements in doors and railings from light metals by getting these products from outside firms.

I want to add here that if I had seen this document at the time myself, and even if I had known that light metal produced by Farben was used by the Navy also for the construction of superstructures on torpedo boats,

were being built, and, secondly, that these torpedo boats were going to be used for a war of aggression by the leadership of the Reich.

Q.- Dr. Buerger, we now want to turn to another subject matter in rebuttal, Document Book 92, the Prosecution's Exhibit 2173, a circular letter of August, 1942 to all of the plant leaders. Under paragraph 2 of this circular letter, the plant managers are informed of the possibility that Dutch workers whose working contract had expired and who would not be drafted for service again within the Reich, should be drafted in Holland for labor after their return to Holland, What have you to say about that circular letter?

A.- This circular letter represents official decrees which were sent to us for further passing on, and for our opinion. We did only what was our duty, according to the regulations of the authorities. We informed our plant leaders of the legal provisions that we had been informed about. Whether they acted according to this information I do not know, and I assume that it was not done.

Q.- Under Paragraph 3 of this same circular letter, - this is a paragraph to which the Prosecution pointed in the index, - the plant leaders are told to see to it that the prisoners of war, as to their work, are to be exploited to the fullest extent; otherwise they should first be reported to the prisoners of war camp, and if they do not work, they should be reported to the control officer, by way of the employees' personnel department. What have you to say about that?

A.- This is merely the turning over of information sent to us by the Stalag, - the authority competent for the prisoners of war. These provi-

sions we had to pass on, and we did that, by first of all making use of the mildest form of disciplinary measures, giving them a reprimand, or suggesting that they be reprimanded in order not to bring to bear any unnecessary harshness, and in order not to irritate the prisoners of war unnecessarily.

I do not know of any case where the control officer meted out imprisonment or arrest punishments which were passable according to this circular letter, up to the duration of up to 10 days, but I want to cite that on the contrary, I remember that Indian prisoners of war who were in the Bitterfeld plant for quite some time, gave us a lot of difficulties. The Indians are known all over the world as not being very industrious, but their achievements while prisoners of war, were generally estimated to be 20 per cent of normal, and that was not quite sufficient.

Q.- I have assumed, Dr. Buergin, that you are citing this case of the Indian prisoners of war because in your recollection, no harsh measures were taken as far as you remember, is that right?

A.- It was an experiment, - this business with the Indians. We had not expected very much from the beginning.

THE PRESIDENT: You have wandered quite a distance from the Exhibit; talking about the situation of Indian employees is quite foreign to the subject matter of the Prosecution's Exhibit 2173.

DR. SCHUBERT: Mr. President, I asked the witness why he had mentioned it, and I assume that he has mentioned it because the document speaks of prisoners of war, and because the Indian prisoners of war apparently did not get any disciplinary punishment; is that correct?

A.- Yes.

DR. SCHUBERT: That concludes that particular point. One last question.

Q.- Now, Dr. Buerger, in the same document, there is also some mention made of the guards of the prisoners of war and that those guards called to task and would be severely punished if they did not take any steps against the prisoners of war who did not work properly. Did Farben have anything to do with these measures against guards?

A.- No. It is shown here that only the turning over of official instructions by the authorities was concerned. There were auxiliary guards, next to the regular guards, that were used for the POW's, and they consisted of Farben employees. Most of them were foremen, but Farben had no possibility of calling these guards to task or to punish them in any way. That was the exclusive privilege of the military authorities.

Farben merely passed on these official instructions, in order to point out by way of the plant leaders, to the men concerned, that they might be subject to punishment if they became too lax in applying the discipline. Farben had to do this in the interest of the men themselves, who after all had to know how they had to conduct themselves, but I must again say that in that regard, that I do not know of any case where a guard, - a member of Farben, - who was used as a guard, was punished for the reason mentioned previously.

A motto that I had issued expressly was that the prisoners of war were to be treated in such a way as we wished to have applied to our sons in a

11 May-A-FL-16-6-Stewart (Int, Kats)
Court No. VI, Case VI

similar situation, and that I was serious when I said that you can see,
if you realize that I myself had two sons fighting on the front.

DR. SCHUBERT: Thank you very much, Dr. Buerger.

That concludes my questioning.

DR. MUELLER: Mr. President, a Commissioner's meeting that was provided for a later time is now going to be conducted, and therefore Dr. Krauch, Dr. Schneider and Dr. Bueteftisch should be present there.

THE PRESIDENT: They may be excused.

Cross-examination Mr. Prosecutor?

CROSS-EXAMINATION

DR. BUERGIN

BY MR. SPRECHER:

Q.- Dr. Buergin, with respect to Prosecution's Exhibit 2173, - I believe you have the copy before you, - that is NI-15143.

A.- Yes, I have a copy.

Q.- Who signed that along with you?

A.- I signed it, and the other one is illegible here in this copy.

Q.- Now with respect to paragraph 2, Dutch workers, how did you get the information from the authorities which you say you were passing on?

A.- You want me to tell you how we got them from the authorities, or is this something else?

Q.- Paragraph 2, - I think you are talking about paragraph 3, - paragraph 2, Dutch workers.

A.- Probably workers were concerned who returned to Holland after their work contract had expired, and in Holland they had to do some work too, and they were used in some place there, and according to the provisions of the authorities, we could send to Holland the name of those returnees, if we wanted to get them back.

Q.- Now, Doctor, my question is this. Did you receive a secret ins-

truction from the Labor Office concerning these matters, or was it a circular, or just how did you get this information which you say you passed on at the request of the authorities?

A.- Undoubtedly by the Labor Offices.

Q.- Do you recall whether it was in the nature of a circular or an oral representation made to you; what was the nature of this?

A.- The circular letter itself we could not find, because I only have this one sheet from all of the correspondence that was conducted about it. The files in Bitterfeld of the preceding and after events, were not accessible to me.

Q.- How did you usually get that kind of information concerning foreign workers?

A.- I cannot say that because they did not come into my office. They were sent to the personnel department, - Employees' Relations Department. I cannot tell you what the originals looked like.

MR. SPRECHER: No questions.

THE PRESIDENT: Is that all, gentlemen?

You are excused Dr. Buergin.

Now, Dr. Hoffmann, you may call your witness.

DIRECT EXAMINATION

Dr. HANS WILHELM MUENCH

BY DR. HOFFMANN (Counsel for the defendant Dr. Ambros): Mr. President, I want to call the witness Dr. Muench.

THE PRESIDENT: The marshal will bring in the witness.

(Witness took stand)

THE PRESIDENT: Will the witness please remain standing to be sworn?
Riase your right hand, say "I" and state your name for the record.

THE WITNESS: I, Hans Wilhelm Muench, Medical Doctor.

THE PRESIDENT: Please repeat after me the oath:

"I swear by God the Almighty, and the Omniscient, that I will speak
the pure truth, and that I will add and withhold nothing.

(The witness repeated the oath).

THE PRESIDENT: You may be seated.

BY DR. HOFFMANN:

Q.- Witness, what is your present address?

A.- Bernbeuren, Upper Bavaria.

Q.- Witness, did you ever testify before a Tribunal?

A.- The end of last year I was tried by the Supreme People's Court
of Poland in the large trial of Auschwitz where I was defendant No. 8.

Q.- What was the result of the trial, as far as you were concerned,
Mr. Witness?

A.- I was acquitted in that proceedings.

Q.- What was your SS Grade that you held while you were in the trial?

A.- I was an Untersturmfuehrer of the Waffen SS, and as such I was
an accused in the trial.

Q.- Can you give me the reasons briefly why the Tribunal there ac-
quitted you?

A.- From September '43, until January, 1945, I was a physician in the
Hygiene Institute in Auschwitz, and the Hygiene Institute was affiliated
with the concentration camp.

Q.- And what was the reason why the Tribunal acquitted you?

A.- The Court found that in disregard of my personal safety, I protected the inmates, regardless of race or nationality effectively, and that I had the confidence of all inmates.

Q.- Did the Polish Court then set you at liberty?

A.- A few days after I was acquitted I was taken to Berlin, and released by the Polish authorities.

Q.- Mr. witness, how did you come to join the SS?

A.- At the end of May, 1943, I was drafted for the SS, as a specialist for bacteria cultures.

Q.- Were you with the SS previously?

A.- No.

Q.- Could you do anything against the drafting for the SS?

A.- Not at the time. At the beginning of 1940 I was asked to join the Hygiene Institute of the SS and I could prevent this only by volunteering for service with the Army. That was the only possibility to evade the desires or the demands of the SS.

Q.- Witness, when you speak of the SS, you mean the Waffen SS?

A.- Yes.

Q.- When you were drafted in 1943, you had no other choice but to comply with that draft?

A.- The provision that the SS could no longer dispose of volunteers of the Army was abolished at that time by a personal decree of Himmler who issued a law about this.

Q.- What was your career, Mr. witness, in the SS, - very briefly?

A.- I went through the normal infantry training for physicians, lasting two months, and then I was transferred to the Hygiene Institute of the Waffen SS in Berlin.

Q.- How long did you stay there, and where did you go afterwards?

A.- I stayed briefly only in Berlin, because the Institute was damaged by bombs, and my place of work was no longer in existence.

Q.- Where were you transferred then?

A.- To the Hygiene Institute of the Waffen SS in Auschwitz.

Q.- Did you know, Mr. witness, that that Hygiene Institute was situated in the concentration camp of Auschwitz?

A.- I did not know until I arrived there.

Q.- What was your first impression of Auschwitz when you arrived?

A.- I had already heard about extermination camps, and particularly extermination camps for Jews, through reports over the Swiss radio that I listened to regularly in the preceding years, but since I considered these news to be propaganda, I did not believe them at the time, because the facts that were being described seemed too terribly outrageous to me. When I arrived in Auschwitz, and had to convince myself personally that these reports were not exaggerated, I was very much shaken emotionally.

Q.- To what activities were you assigned in Auschwitz?

A.- In 1943, in the spring, the Hygiene Institute had been founded in Auschwitz in order to control the very severely spreading epidemics among the inmates in Auschwitz and to see to it that these epidemics did not

spread to the civilian population in the industrial area of Upper Silesia. Typhus and typhoid were concerned mainly.

Q.- How did the Hygiene Institute work as far as personnel was concerned?

A.- The work proper, the bacteriological work in particular, was conducted exclusively by inmates, by specialists and by authorities from all over Europe.

Q.- Can you give me a few names?

A.- Professor Tomaschok of University of Bruenn; Professor Jakubski from the University of Poznam; Professor Mannsfeld, from the University of Budapest; Professors Klein and Coblenz, from Strassbourg; Professor Levine of the Pasteur Institute, Paris; Dr. Pollak, a noted internist of Prague. The entire detail consisted of 100 to 120 inmates, more than one half of whom were highly qualified experts.

Q. What competence or jurisdiction did you have within the concentration camp itself?

A. Essentially I had to supervise this detail of inmates and within the concentration camp I had to advise the camp physician or the physician of the garrison on the control of diseases.

Q. Mr. Witness, in that position that you held did you have a chance to gain an insight into the entire concentration camp of Auschwitz?

A. Yes.

Q. Would you describe briefly all the territory that was part of the concentration camp Auschwitz?

A. The concentration camp consisted mainly of the main camp, Auschwitz I, and the camp Birkenau, Auschwitz II, and then there were forty-two branch camps affiliated, some of which were small and had only several hundred inmates and others had several inmates. In the summer of 1944 the entire Auschwitz complex consisted of 144,000 inmates.

Q. Did Monowitz also belong to the Auschwitz concentration camp?

A. The Monowitz camp was a branch camp of the Auschwitz concentration camp, the largest branch camp.

Q. Was that indicated also in the field of medical care, something about which you know?

A. I do know about the medical care and it didn't differ in any way from the other branch camps.

Q. How was this medical care given to Monowitz?

A. The subsidiary and branch camps - Monowitz, in particular, had

a so-called hospital building which was equipped like a hospital and that meant that it was a sick bay that was destined only for short treatment. More serious cases and sicknesses that took long to cure were transferred to Auschwitz or to Birkenau.

Q. Mr. Witness, you already mentioned that it was an irrefutable fact that mass exterminations were carried out in Auschwitz, is that right?

A. Yes.

Q. Would you describe briefly where this extermination was carried out, particularly the locality?

A. The extermination plant was located at Birkenau. The crematoria and gas chambers were located one or one and a half kilometers southwest of the Birkenau camp camouflaged in a small woods.

Q. What purpose did the crematoria serve?

A. All corpses were burnt there, as far as their capacity was sufficient.

Q. If the capacity of these ovens was not sufficient, what was done then?

A. Then the corpses were burned on large piles.

Q. Could one see these fires from the outside or were these fires also camouflaged?

A. One couldn't see these fires at all, but one had to smell the odor because the burning of such tremendous numbers of corpses caused a terrible odor which was perceivable everywhere.

Q. Mr. Witness, you were informed about the fact that human beings

were being gassed in Auschwitz?

A. Yes.

Q. During the time that you were working as a physician in Auschwitz did you make many trips, vacation trips or officials trips, to Germany?

A. Yes, very many to Germany.

Q. What knowledge did the people in the Reich have, as far as you were able to find out?

A. I would find out everywhere that the concentration camp Auschwitz was practically unknown in Germany. It is true that I was very careful that it did not become known that I was working in Auschwitz.

Q. Mr. Witness, for that reason did you not spread the fact that human beings were being gassed and exterminated?

A. I was asked this very often and also before the Supreme Court of Cracow and I can say in answer to it that that would have been a completely useless undertaking which would have very shortly caused me and my family to be liquidated very quickly because the Gestapo was so well organized and the threats for non-observance of the secrecy that surrounded the Auschwitz exterminations was so clearly worded for members of the SS that everybody avoided telling even his closest friend about it because experience taught us that anybody who talked about it in any way was very quickly found out because the Gestapo sniffed out every rumor very consistently that spread about Auschwitz.

Q. Do you have any indications for the fact that the other SS members that were working in Auschwitz had a similar sentiment or fear of spreading these rumors?

A. Certainly, undoubtedly, and to an even greater extent than in my case, especially as far as the great majority of the guards was concerned, because those guards were very harshly and severely treated by the SS already at that time.

Q. How about the inmates? Do you know, have you any experience whether the inmates informed anybody else about the fact that gassings were being conducted there?

A. I have the very definite impression, and all the experience that I have been able to gain about this now, after I was released from prison, convinced me of the fact that the inmates too did not say anything to civilians with whom they got in touch in Auschwitz for they, the inmates, were liquidated very quickly and simply if it was proven against them that they had disclosed this information or if only a suspicion that they had disclosed this information existed, and, in the face of the chimneys in Auschwitz that were smoking constantly, every inmate had inhibitions about telling anybody else.

Q. Mr. Witness, what would you say if someone visited a plant in Auschwitz twice or three times a year for a period of one or two days, would he then have to gain knowledge about these things?

A. I repeatedly witnessed guided tours of civilians and also of commissions of the Red Cross and other parties within the camp and I was able to ascertain that the camp leadership arranged it masterfully to conduct these guided tours in such a way that the people being guided around did not see anything about inhuman treatment. The main camp was shown only and in this main camp there were so-called show blocks,

particularly Block 13, that were especially prepared for such guided tours that were equipped like a normal soldier's barracks with beds that had sheets on them, well-functioning wash rooms. They had heat and a part of the kitchen was also shown which was properly equipped like any other large kitchen. A laundry was shown them and other administrative buildings where one couldn't see anything untoward.

Q. Where was the misery actually going on?

A. In Birkenau, in the Birkenau camp and also in the main camp, but during the time when these guided tours were conducted around, this could not be seen because the inmates were mostly working at that time and because the inmate that had deteriorated, who was physically weak as the technical term was, became a victim of extermination anyhow so that the inmates that were still alive all had a rather good appearance.

DR. HOFFMANN: I have no further questions.

BY DR. HELLMUTH DIX: (Defense Counsel for defendant Schneider):

Q. Dr. Muench, do you know when Hitler stopped the gassings?

A. If I remember correctly in the middle of October 1944.

Q. You were speaking about visits of the Red Cross. Was that the International Red Cross?

A. Yes.

Q. The International Red Cross. You said that the inmate physicians were very capable. Isn't it true that, between the inmate physicians and the SS physicians, some close contact developed because of their profession, as far as was possible?

A. That's certainly true in my case and I observed that in a very

few other cases also.

Q. From a human point of view, and to put it mildly, that was very embarrassing to you and that was certainly true. Is it true that physicians who had such a contact tried to push the blame for these things on somebody else's shoulders, is that right, but giving the names of other people whom they considered guilty?

A. Do you mean in the trials?

Q. No, I don't mean before the courts. I mean in the concentration camp, if any SS physician talked to an inmate physician personally. Is it true that then the SS physician tried to push the blame from himself and in a certain sense from his medical superiors to somebody else's shoulders?

A. That was true.

Q. There have been many inmate physicians examined here. Would it then be possible that the SS had the tendency to push the responsibility towards the shoulders of Farben if they spoke.....

MR. SPRECHER: Just a minute. The nature of these last few questions has been exceedingly improper and we ask that the Court let this witness, who is a very intelligent witness, testify on his own, having been indicated the subject by counsel.

THE PRESIDENT: Sustained. The questions are leading, Dr. Dix.

BY DR. DIX:

Q. You confirmed for me that the physicians had the tendency of blaming somebody else for the responsibility.

A. I can say something else in supplementation. It is an irrefutable fact that only the SS, the Reich Security Main Office, and particularly, the concentration camps leadership had to do with these things, and if I said that the SS physicians endeavored to push the blame on somebody else, then they meant the Reich Security Main Office.

THE PRESIDENT: Anything further from this witness?

Cross examine the witness.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, you were an associate of Dr. Weber of the Hygiene Institute at Reiskow?

A. Yes. Weber was my direct superior.

Q. And among the functions that you had in that office was the testing of the water supply for Auschwitz to determine whether it was fit for human consumption?

A. Yes.

Q. In testing this water, Mr. Witness, what did you find?

A. May I ask you what water you mean? The water of the city of Auschwitz, of the camp, or of the plant?

Q. The water which was used for the inmates who lived in Monowitz and who worked at the plant Auschwitz - I.G. Auschwitz?

A. Yes. I have to think about this a minute. If I remember correctly, the Camp Monowitz too was connected to the central water supply of the Auschwitz camp and at my time, at the end of 1943, that water supply was perfectly in order.

Q. Do you recall, Mr. Witness, protesting to the construction management at I.G. Auschwitz that the water was found to have coli bacillus in it and was therefore un-drinkable?

A. The water supply of Auschwitz generally was very poor from a chemical and bacteriological viewpoint, and if coli bacillae were found it depends on the number because they were proof of presence of coli bacillae within the area of the Upper Silesian industrial territory, was something occurring very frequently. It didn't necessarily mean that the water was not potable. One has to know exactly the detailed findings of the investigation and if you could show this to me then I would gladly give you the information. As far as I remember, there were no wells in the Monowitz camp any more at my time. All the wells were poor, particularly in Birkenau.

Q. Now, Mr. Witness, your office was located less than a thousand yards from the Birkenau death houses, isn't that right - the gas and crematoria?

A. No, I estimate that it's two and a half kilometers as the crow

flies the institute in Reiskow that we had. Perhaps even three kilometers as a crow flies, but I believe that is not very relevant. Excuse me.

Q. And how far from the railroad was your office, the railroad which brought the unfortunate victims into Birkenau for gassing?

A. That was immediately adjoining. The railroad was in the immediate vicinity.

Q. Now, Mr. Witness, you testified that persons in Germany didn't know about the gassings and the exterminations at Auschwitz. Now, could you tell the Court how about the civilians that lived in Auschwitz and smelled these chimneys each day and saw the railroads come into Auschwitz? How about those civilians? Did they know about the gassings that were going on at Birkenau?

A. I must put it this way. In Auschwitz and the vicinity as far as Kattowitz was full of rumors about the extermination of Jews by gassings and by burnings and if anyone wanted to obtain detailed information about this then he could do it only by getting in touch with an SS leader with whom he was closely associated - if he knew him well and discussed it with such an SS leader. A simple SS man would have given him no information, just as little as any inmate would have given him any information.

Q. Now, Mr. Witness, I hadn't intended to have persons in Kattowitz, about fifty kilometers away, asked about the gassings. I was asking about Auschwitz itself, the city of Auschwitz, were civilians

lived, and in that city where civilians lived, right in the shadow of the crematoria, did those civilians, not in Kattowitz but in Auschwitz, did they know about the gassings?

A. Yes, that is the way I meant it, because in Kattowitz one was able to smell the stench of the crematoria just as well as in Auschwitz. Auschwitz and the further surroundings are to be considered equally in this respect because one could not perceive more than the odor. That's all one could perceive from these gassings.

Q. Now, witness, isn't it a fact that tens of thousands of persons from all over Europe came to Birkenau through this railroad right next to your office, were brought into Birkenau right through the city of Auschwitz? Isn't that a fact?

A. Yes, that's a fact.

Q. So that over a period of two years over four and a half millions came through this little railroad next to your office into Birkenau, right through Auschwitz, isn't that true?

A. The figure isn't important as far as a few millions are concerned, but there were millions anyway that came in.

Q. Now, Mr. Witness, weren't there civilian workers on those railroads?

A. Yes.

Q. And weren't there Polish civilian workers on the ramp of the station at Auschwitz?

A. Yes.

Q. And didn't these civilians, who weren't bound by the secrecy

of the SS, see all these persons coming in through Auschwitz to Birkenau in crowded trains?

A. They were exposed to the same pressure as the SS. It's true that they weren't put under a oath every day anew but for them the danger was even greater than for the SS because they were suspect from the very start already of making any disclosures and for that reason the Gestapo supervised them very closely and every one of those people working for the railroad or the Poles had to feel that he was being kept under surveillance, and there are many examples, especially among the German speaking Poles, who were sent to a concentration camp even as a result of the vaguest suspicion that they had disclosed anything.

Q. Now, Mr. Witness, apart from who these civilians who lived in Auschwitz might have told what they themselves knew, didn't the civilians themselves who lived in Auschwitz and had constant contact with other civilians who worked on the railroads and near the railroads, didn't they themselves at least know of the gassings of inmates and the gassings of persons being brought to Birkenau?

A. Well, I can only repeat what I said before. The knowledge of the exterminations in Auschwitz has to be considered general according to my experience, but only by way of rumor because any actual confirmation, particularly about the manner in which these exterminations were being conducted, nobody, in my opinion, could procure, and then one must take into account that many trains came out of

11 May - A-11-19-6-Leonard (Int. Katz)
Court VI - Case VI

Auschwitz too and they were made up in the same way as the trains going
in. They were completely enclosed.

Q Mr. Witness --

A May I add one more thing, please. The SS spread again and again that the trains that came out of Auschwitz were loaded with inmates that were being transferred to other camps, and it happened frequently that transports were transferred to other camps so that one could see this actually to be true.

Q Mr. Witness, did you personally ever witness the gassing of human beings?

A Yes, I saw one gassing at one time.

Q And before you actually personally saw this gassing, is it your testimony that all your knowledge of gassings was just rumor?

A No. Not my knowledge. And as far as the SS in Auschwitz is concerned one can assume that all of them knew about details even if they didn't all of them see it themselves.

Q Now, Mr. Witness, did you know that there were thousands of I.G. Farben employees living right in the city of Auschwitz?

A Yes.

Q And did these I.G. Farben employees have the same access to the knowledge of the gassings in Birkenau that the civilian Poles had who lived in the city of Auschwitz?

A Access to what facilities -- to the camp you mean?

Q No. I will withdraw that question. Mr. Witness, on the I.G. Farben construction site in Auschwitz there were some 7,000 inmates of the Concentration Camp Monowitz working. Now, these 7,000 inmates, would

they know about the gassings that took place at Birkenau?

A All of the inmates who were in Auschwitz knew about it. They were informed to the fullest extent.

Q Now, Mr. Witness, isn't it a fact that during the time you were at Auschwitz allied planes dropped leaflets over Kattowitz and Auschwitz informing the population what was going on in Birkenau?

A No, I don't know that.

Q Mr. Witness, you testified a little earlier that those who were sick in the camps, like in Concentration Camp Monowitz, would be sent to Auschwitz Birkenau, but I wasn't quite clear as to why they were sent to Auschwitz-Birkenau and I'd like to put just a question or two to you on that. Mr. Witness, those persons who were in the hospital at Monowitz and were shipped to Auschwitz-Birkenau because of edema and phlegmona, for what purpose were they shipped to Birkenau?

A As far as these people were Jews I must state that most of them were gassed.

Q And, Mr. Witness, if they were sent from the hospital in Monowitz to Auschwitz-Birkenau and they were Jews and they were sent because of weakness and collapse, why were they sent to Birkenau?

A Also to be gassed.

Q Thank you. No further questions.

REDIRECT EXAMINATION

BY DR. SEIDL: (for the defendant Duerrfeld)

Q Mr. Witness, did you ever talk to any superior employees of Farben in Auschwitz about these gassings?

A Never.

Q Did you know any superior employee of Farben in Auschwitz personally?

A I personally know construction engineer Faust very well.

Q Did you ever speak to the construction engineer Faust about gassings?

A Never. On the contrary, I expressly avoided speaking to him about it because I had the certain feeling that if he was informed about the extent of this fact his already difficult position in Auschwitz — I mean from a psychological point of view, he would even become more exposed to pressure.

Q You said that Oberingenieur Faust had a difficult position in Auschwitz and I would like to have you explain that a little more. What do you mean by that?

A You can imagine that a man of the type of Mr. Faust who lived in this Auschwitz atmosphere, as I would call it, suffered very much from the provision that forced him to work there.

Q May I understand your testimony to mean that he suffered from the fact that Farben was given the order from the supreme Reich authorities to employ inmates in the construction of this new plant?

A Yes.

MR. SPRECHER: Mr. President, so long as such suggestive and leading questions are asked we will ask that they be stricken.

THE PRESIDENT: Well, we will not take time to strike what has come in, but Dr. Seidl your questions were leading and refrain from it.

BY DR. SEIDL:

Q Dr. Muench, in the course of your conversations with Oberingenieur Faust did you have the impression that the latter had knowledge of those extermination measures that were going on in Birkenau? Did he ever give you a hint to that effect?

A I know with absolute certainty that Mr. Faust knew no more than those rumors in the form that I have prescribed them before -- that he had no concrete knowledge about, for instance, selections -- that he didn't know anything about the fact that sick people were being gassed there.

Q Did you discuss such things with him at all?

A Never.

Q Then you are making a conclusion -- that is an assumption of yourself?

A It was an unwritten law in Auschwitz that one didn't discuss this particularly with civilians -- a law which was observed by both parties. The civilian knew very well that the SS leader wouldn't tell him anything.

Q If the Oberingenieur Faust had asked you about those rumors would you then have told him the truth?

A That is a very difficult question for me to say now. That depends very much on the immediate conditions of the moment when the question was asked. But as a matter of principle I would not have talked about this even to Mr. Faust just as little as I would have talked about it to my next of kin.

Q Did you ever speak to Dr. Duerrfeld?

A No, I can not remember.

Q Did you know Dr. Duerrfeld at all?

A I believe so, he was introduced to me somehow. Nothing more.

Q I want to ask you how often did the cremations take place in the open air — how often did that happen in the years in question?

A I can only give detailed information about 1944. During the time when the transports arrived from Hungary — in the spring of 1944 until the autumn of 1944, around September, these wooden pyres were burning every day.

Q You can not say anything about 1943?

A It's very difficult for me to give detailed information.

Q Mr. Witness, I would like to find out from you how you received information about these rumors. Did a civilian address a direct question to you?

A No, the camp leadership informed me about that officially. I was asked to carry out the selections. As a member of the camp, so to speak, I was informed about it at the very beginning.

Q I want to know from you where you got the knowledge that the civilians knew about these rumors.

A Oh, I see.

Q And I want to ask you whether anyone from Farben or from the civilians approached you and asked you for enlightenment in that respect.

A If one went into Auschwitz dressed in SS uniform then nobody would have asked about it — not even if one was sitting in the movies, one wouldn't have heard anything. If one went to Auschwitz in civilian

clothes one could hear people speak quite senseless things about Birkenau and the crematoria and about the concentration camp. At any rate one could hear only rumors. But that could only be detected if one moved about dressed in civilian clothes.

Q You say senseless rumors went round. Do you want to say that rumors went about that were not at all according to the truth and actual events?

A Yes. For instance rumors that only people who had died a normal death were being burned there. For instance that in large transports from Krakow and Poland had come people who were sick of typhus and who were being gassed there. Then there was another version that the Heinrich Himmler plants were located there and a particular substance was being produced that was needed for retribution weapons — V Weapons, and entirely senseless rumors were spread — sometimes on purpose — and they were carried about accordingly. That for this Heinrich Himmler plant one needed human fat.

Q You said that you had heard rumors already from the Swiss radio before?

A Yes.

Q Did I understand you correctly that you didn't believe it at the time either?

A Yes. May I make one more remark about this? I can, even today, still determine, when I get in touch with people whom I knew previously, or with strangers, that ninety percent of the German people still today are firmly convinced that the facts of Auschwitz were not true — that

people don't believe it despite all the enlightenment that was produced. That is an experience I make every day.

DR. SEIDL: No further questions.

THE PRESIDENT: Gentlemen, it is time for recess but might we know before recess if this witness will be needed any longer?

MR. MINSKOFF: The Prosecution has two questions if it please the Court.

THE PRESIDENT: Ask them and we will run over a minute and get through with the witness.

RECROSS EXAMINATION

BY MR. MINSKOFF:

Q Mr. Witness, do you recall the time when allied planes bombed and destroyed part of B irkenau -- no -- whether there was a bombing in Birkenau?

A In B irkenau at the very end of 1944 one bomb was dropped and that hit the SS hospital. That was an accident -- that bomb was not aimed there at all. Within the concentration camp only one time bombs were dropped and that was the Kaserne of the SS in the original camp.

Q Mr. Witness, prior to that time wasn't there a destruction of part of B irkenau by the inmates themselves -- of the crematorium?

A Crematorium 4 -- yes. In the summer of 1944 it was blown up by the special detail and an escape attempt by force was made.

Q Now, Mr. Witness, will you tell this Court where the inmates who destroyed this part of B irkenau -- where they ran and where they were found and where they were looked for?

A Yes. But details I only know from the trials in Krakow.

THE PRESIDENT: Let's not go into the field of hearsay on that now.
We're getting far afield.

A I have no detailed knowledge about it myself.

MR. MINSKOFF: You had no knowledge at the time that any of these
inmates were found in I.G. Auschwitz?

A No.

MR. MINSKOFF: Thank you. No further questions.

RECROSS EXAMINATION

BY DR. HELMUTH DIX:

Q I have one question. The Prosecution stated that four and one
half millions were gassed. Is that figure not too high as far as your
information goes?

A In the Auschwitz trial in Krakow three and one half million were
determined as definitely certain. But it was said in that connection
it wasn't proven whether perhaps it wasn't more than that.

THE PRESIDENT: Now, is that all gentlemen? Then, Mr. Witness,
you are excused from further attendance and the Tribunal will rise for
its recess.

THE MARSHAL: The Tribunal is again in session.

DR. TRAPANDT (Counsel for defendant Duerrfeld): Your Honors, I would excuse the defendant Duerrfeld to attend the Commissioner's hearing in room 295.

THE PRESIDENT: The defendant Duerrfeld is excused.

DR. GIERLICH: Your Honors, this morning when the DAG documents were introduced, I made a motion to strike a certain part of the record. In the meantime, I have been successful in reaching an agreement with the Prosecution on that point. With the permission of the Tribunal, I should like to read that stipulation and that will dispose of the matter for all parties concerned.

THE PRESIDENT: You may do that now, Dr. Gierlich.

DR. GIERLICH: On 30 April 1948 the defense affiant, Dr. Rudolf Schmidt, was examined and in the course of the cross-examination by the Prosecution, he was shown a document which was marked for identification as Exhibit 2341. The record, at page 13129 of the transcript, shows that the Prosecution furnished the witness a typewritten copy of the document and stated that the photostat of the original was not then available, but as soon as it was available it would be offered in evidence. In the typewritten copy which was shown the witness, his attention was directed to Item 5 and he was asked whether or not the document refreshed his recollection that Vorwortchomie owed Farbou 68,000,000 RM. Since the typewritten copy showed such a reference, the witness proceeded to testify on that assumption.

Since the date of that examination the photostat of the document

became available and was offered in evidence as Exhibit 2341, NL-15269. An examination of the photostat indicates that an error was made in copying that document and that the error appeared in the copy that was shown to the witness at the time of his cross-examination. The Prosecution and defense counsel, in view of the foregoing, agree to correct the record as follows:

The document, which has since been offered in evidence as Exhibit 2341, NL-15269, shows that Item 5, about which the witness was interrogated, was in fact an entry showing that Dynamit A.G. owed Verwertchemie approximately 68,000,000 RM. The entry which was contained in the copy of this document which was shown to the witness, namely, that Verwertchemie owed Farben 68,000,000 is concededly in error.

Both the Prosecution and the Defense agree, therefore, that the testimony of the witness appearing at page 13129 of the transcript relating to this alleged credit from Verwertchemie to Farben be stricken from the record, provided, however, that the Exhibit 2341, NL-15260, remain in full force and effect as an exhibit in this proceeding and that either party may refer to the contents of this exhibit for such purposes as may seem necessary to them.

THE PRESIDENT: The stipulation agreed upon by counsel for the prosecution and the defense is acceptable to the Tribunal and the record is now considered corrected accordingly. We take it that the striking of the record will not physically occur but that it will be considered stricken.

DR. ROSPATT (Counsel for defendant Krauch): Your Honor, Dr. Boettcher reserved the right yesterday to comment upon Ambros Exhibit 221 which was

introduced yesterday. In that connection he wanted to submit a document on behalf of the defendant. I, therefore, offer Krauch Document No. 157 which is an affidavit of Dr. Ehmann as Krauch Exhibit No. 210.

This concludes the presentation of documents on behalf of Professor Krauch.

THE PRESIDENT: Thank you, Dr. Rospatt. Any other of counsel for the Defense ready now to present the remaining documents?

We have the documents here before us. Some of them may be in evidence and may not. What about this Buergin Document Book VIII or the addendum to Document Books IV and V of the defendant Mann or Document Book IV of the defendant Kuehne or Document 24 of Basic Information.

DR. NATH (Counsel for defendant Kuehne): As far as I know, I introduced all the documents on behalf of Dr. Kuehne. There may be an error.

THE PRESIDENT: It may well be also that this is a duplicate book that I have before me. Here I was just trying to check on all of those. I may say to you that it appears from the contents of Document Book IV Kuehne that it contains only two exhibits and that they do have exhibit numbers in the index and I assume, therefore, that this was just a matter of supplying a book that perhaps was not available at the time. That, I think, was taken care of.

DR. NATH: Yes, your Honor.

THE PRESIDENT: Now can anyone speak with reference to the others that I mentioned? Shall I take them up again? Is Dr. Silcher here? Dr. Silcher, what about this document, Basic Information, that contains Document 24?

DR. SILCHER: Your Honor, I offer that when introducing the Basic Information. At that time I named all the defense exhibit numbers.

THE PRESIDENT: Very well.

DR. SILCHER: Let me just find out from the Secretary General what defense exhibits numbers they are. At the moment I can't find out what the defense exhibit numbers are. The Secretary General hasn't got the list available at the moment but all these numbers have been read into the record. Perhaps I can tell you that informally in the office.

THE PRESIDENT: Here is another one I should like to ask about if anyone can tell us. Perhaps Dr. Berndt can. I have before me a document book, Dogesch III containing Document No. 79. Has that been offered, Doctor?

DR. BERNDT (Counsel for defendant Mann): I haven't Dogesch Document Book III at the moment. I don't think that there is any one document contained in that book which was not yet introduced. However, there is a supplemental volume to the Dogesch Book as well as a supplement on behalf of Mann. That is all I have.

THE PRESIDENT: We have the supplement on behalf of the defendant Mann that you may offer if you are ready.

DR. BERNDT: Is it in English, your Honor?

THE PRESIDENT: Yes, Dr. Berndt. It starts with your document No. 371.

DR. BERNDT: Very well. Document 371 will receive exhibit number 326; document 452, exhibit number 327; document 440, exhibit number 328; document 456, exhibit number 329; document No. 453, exhibit number 330; document number 375, exhibit number 331; document No. 459, exhibit 332; document No. 460, exhibit number 333.

I have one more document which contains an affidavit of one Heinrich Hohmann of Buenos Aires which has not been translated. This is Mann 458. I shall submit it later in the English translation and it will receive exhibit number 334.

Finally, there is a document No. 461, which also has not yet been translated. It is an excerpt from the "Voelkischer Beobachter" dated 7 October 1939. This will receive exhibit number 336.

THE PRESIDENT: Is that correct? The preceding number was 334. Have you a 335 out somewhere?

DR. BERNDT: I beg your pardon, your Honor. You are quite right. It should be 335.

THE PRESIDENT: Thank you.

DR. BERNDT: The Tribunal is not yet in possession of the index to Document Book Degesch No. III. Has it been translated in the meantime and is it available to the Tribunal?

THE PRESIDENT: We do not have — appear to have it, Dr. Berndt. We have one document, however — No. 79.

It is not necessary that you introduce the index to your document book. You may have it processed and distributed to our office. It will not be necessary to make any record on an index.

DR. BERNDT: Very well. I will just read the exhibit numbers. Degesch No. 65 will be Degesch Exhibit 56.

THE PRESIDENT: Wait a moment. I misunderstood you. I thought you were speaking on a case where the documents were in evidence but the index had not been supplied. Are these documents that you have not yet offered?

DR. BERNDT: No, I have not yet offered these documents. They have already been approved and they are being translated.

THE PRESIDENT: Very well. Now, these are Degesch documents.

DR. BERNDT: Yes. Degesch Document No. 65 will become Exhibit 56; Document 66 will become Exhibit 57; Document 67 will become Exhibit 58; Document No. 68, Exhibit No. 59; Document No. 69, Exhibit No. 61 because another document, No. 72 is already in evidence under No. 60.

Document No. 73 will have exhibit number 62. Document No. 80 will receive exhibit number 63. Document No. 74 will become Exhibit No. 64. Document No. 75 will become Exhibit No. 65. Document No. 76 will become Exhibit No. 66; Document No. 77, Exhibit 67; Document No. 78, Exhibit 68; Document No. 79, Exhibit 69, Document No. 91, Exhibit No. 70; Document No. 82, Exhibit No. 71; Document No. 83, Exhibit No. 72; Document No. 84, Exhibit No. 73; Document No. 85, Exhibit 74.

I shall hand these documents to the Secretary General.

This, I think, concludes the presentation of documents on behalf

of tor Meer, Mann and Degesch.

THE PRESIDENT: I wish you would, however, Doctor, check with respect to Degesch Document 79 and make sure when you have an opportunity as to whether it is in evidence.

I am sorry; that is one you just called. That is, 79 is now your Document 69.

DR. BERNDT: Yes, your Honor. Document No. 79 will be Exhibit 69.

THE PRESIDENT: Very well. Now we are still in a bit of doubt with reference to Buergin Document Book VIII. Is that in evidence?

DR. DIX: Your Honors, my colleague Gierlichs has informed me about the reasons which led to the failure to rule upon the question whether according to the record of the 17th of September 1945 the defendant Schmitz was referred to Ordinance No. 1 by the interrogation which had the following consequences. At the moment these records are not before me. I submit that the ruling read by Judge Morris should be re-examined after reading these records. At any rate, I meant that when making my statement before.

I think that of necessity one must conclude that. I think now the ruling has to be reconsidered because of that new fact of the proof as it is made by the record and by the witnesses I named.

Afterwards I have come to agreement with Mr. Sprecher, according to which the text of this record is correct although it had been submitted from a copy. I also agreed with Mr. Sprecher that it will be superfluous to hear any witnesses; but still outstanding is a ruling from you about the following fact: Does this not change -- may I continue? --

does this not change the conditions upon which the ruling is based which was announced by Judge Morris.

Judge Morris expressly stated that Dix did not prove that Ordinance No. 1 was known to Mr. Schmitz. It has not been proven that his testimony was made in a casual connection with and under the influence of that Ordinance -- ergo, it is denied. As a proof I referred to the witnesses and the record. I should like the Tribunal to decide upon that motion. I shall submit another motion so there will be no doubt and so that the record be settled properly.

THE PRESIDENT: Of course, counsel will understand that when the Tribunal rules on a motion it rules in the light of the record as it was at the time the motion was filed and to the factual situation that existed at the time which the motion is directed. In order to keep the record straight, Dr. Dix, you had best prepare a new motion and raise your question directly in the light of the record as it now exists, and present your situation in that manner.

DR. R. DIX: Yes, I shall do that now, Your Honor.

THE PRESIDENT: Now, gentlemen, are there any other members of the Defense counsel staff that have any further record to make in this case by way of presenting any additional exhibits?

DR. SILCHER: Mr. President, I merely wanted to state that basic information under "24" will bear Exhibit No. 277.

THE PRESIDENT: Thank you, Doctor.

DR. SILCHER: Moreover, I am just told that Dr. Schubert has been informed and that he will appear here shortly to introduce the Buergin document book which is before you.

THE PRESIDENT: Thank you very much.

DR. WEYER (Counsel for Gajewski): Your Honor, my colleague, Dr. von Metzler, introduced Document Gajewski No. 85 as the last exhibit on behalf of Dr. Gajewski. At that time it had not been ascertained what exhibit number was to be assigned to that document. In the meantime we have reached an understanding with the Secretary General according to which this document Gajewski 85 will become Gajewski Exhibit 82.

THE PRESIDENT: Thank you.

DR. WEYER: Then I have another matter to put before this Tribunal. In the session of Friday, the 30th, the Prosecution introduced Rebuttal Book No. 1, Prosecution Document Book 92. Contained therein are Exhibits 2155, 2156 and 2157 which refer to the defendant Gajewski or the relationship between Farben and D.I.G. In the course of the examination of the Defense witness Dr. Schmidt by the Prosecution, which occurred later that same morning, these three documents were put to the witness as exhibits. A number of questions were put in connection with these documents. On the basis of the motion which was by Dr. Gajewski's Defense on Monday, 3 May, handed to the President, these three exhibits were again stricken from the record. Consequently, it is our opinion that these exhibits should neither be allowed to rest as the basis for Schmidt's examination. For that reason we would like to motion to strike the questions and answers from the record referring to these documents.

THE PRESIDENT: Counsel, I think I should say to you that the motion which we sustained with respect to Prosecution's Exhibits 2155, 2156 and 2157 only went to the extent that we struck them out of the evidence so far as they were offered as separate rebuttal documents. That motion would not go so far as to affect the use of those affidavits in proper cross-examination. And unless there is some other, and good, reason why the cross-examination should be stricken, there is no conflict in the position of the Tribunal.

May I again inquire, Dr. Siemers, did you complete the introduction of your documents?....We will permit you to do so now.

DR. SIEMERS: I should like to correct a mistake which occurred

before the noon recess. At the end of Document Book 10 I introduced Document 213 as Exhibit 218, which was an affidavit of Ludwigs. I did not intend to offer this affidavit and I should like to withdraw it.

THE PRESIDENT: Very well.

DR. SIEMERS: I shall now offer the other documents which, as I said this morning, refer to the answer of the Swiss national Koechlin to my questionnaire. The day before yesterday I received that reply from him. The questionnaire was Exhibit 214 and I shall now offer the reply as well as the questionnaire in itself as Document 189, Exhibit 214. On the sixth of May, 1948, I received the original document from Major Schaefer and I am now able to put it before the Tribunal. The questionnaire is already known to the Prosecution because it is included in the document book. With the permission of the Tribunal, I shall only read the reply to Question No. 8. The question reads:

"Q. How do you generally judge Dr. von Schnitzler's personality, in view of his position abroad and in view of the framework of international negotiations?"

"A. He was placed into a position and into responsibilities to which he could not do justice. He was a little too superficial and he did not sometimes penetrate the subject matter deeply enough. For that reason he did not in every respect cope with all the matters involved and he was in many cases influenced by external matters."

I shall ask that the next two sentences --

THE PRESIDENT: Dr. Siemers, I am very sorry but you are doing violence to a rule which we imposed upon your associates and who accepted it

in very fine grace. The rule was that at this stage of the trial we would permit you to give your document numbers and your exhibit numbers only, and that we would not listen to explanations or statements as to the contents of the documents. I believe you should comply with that rule also.

DR. SIEMERS: I beg your pardon, Your Honor. I understood the decision of the Tribunal to mean that the contents of these documents may be referred to inasfar as they have not been translated. This would assist the Prosecution, who haven't got the documents before them.

THE PRESIDENT: We will give them time to examine the documents and an opportunity to make their showing. Just let us have your document numbers and your exhibit numbers now, and that will suffice.

DR. SIEMERS: Document 189 will become Exhibit 214.

Document 220 will become Exhibit 219, a letter of the same Swiss national, Koechlin, 24 October, 1940, addressed to Dr. von Schnitzler, with reference to collaboration with Frossard.

Document No. 221 will become Exhibit 219--

THE PRESIDENT: 220, Doctor; Document 221 would be your Exhibit 220.

DR. SIEMERS: I beg your pardon, Your Honor. I think that occurred as a result of my mistake this morning.

Document 220 should become Exhibit 218.

THE PRESIDENT: 213 was your exhibit 218; that is a withdrawn document but it will still keep its number. Your Document 220 is Exhibit 219. 221 is Exhibit 220.

DR. SIEMERS: 221 will be Exhibit 220, a letter of Director Schwab,

who was a witness here, of 6 October, 1939.

Document No. 222, Exhibit No. 221, a letter of the Plenipotentiary for the Four Year Plan, Gross, of 7 May 1942. This document concerns Winnica.

Then comes Document 223, which was offered for identification with the number 182. Now it will receive No. 182. These are further excerpts from the interrogation record of Dr. von Schnitzler by Mr. Sprecher of 18, 19, 20 and 22 February. These are the excerpts which I already put to the witness Wolffsohn during his cross-examination. Documents No. 224 will receive Exhibit No. 222. This is an excerpt from an English book which concerns the legality of the Vichy Government.

Document 225 will become Exhibit 223. This is a statement by Dr. Gustav Kuepper, who is known to the Tribunal as a witness. It deals with the same question which was dealt with this morning by the witness Haefliger.

This will conclude the presentation of my documents.

THE PRESIDENT: Thank you, Doctor.

MR. SPRECHER: Mr. President, I think I can dispose of the only document I know of as of this moment which we will want to present before Your Honors by making a very short statement. It relates directly to the three excerpts which Dr. Siemers just mentioned.

THE PRESIDENT: Very well.

MR. SPRECHER: Dr. Siemers has put in the beginning of the first interrogation which I conducted of the defendant von Schnitzler. We would like to put in the rest of that whole interrogation, the first

interrogation of Dr. von Schnitzler in Nurnberg, and we will continue in that document with the place from where Dr. Siemers left off. In that interrogation Dr. von Schnitzler describes to me at some length this whole question which Dr. Siemers has now gone into this morning, and—

THE PRESIDENT: We should like to have, Mr. Sprecher, the document number and the exhibit number. That is what we are very anxious to get, and that is about all we want now. You are falling in the same habit we had with Dr. Siemers. If you are in the position to tell us the document number and the exhibit number, it will be admitted. I hope the other gentlemen will profit by the example we are trying to establish here.

MR. SPRECHER: I can't give you the NI number.

THE PRESIDENT: Very well.

MR. SPRECHER: But I wanted to reserve the exhibit number and put it in this connection, and I did this because Your Honors have mentioned that when excerpts from a document are offered the other party can normally offer some more. So that would become Prosecution Exhibit 2265.

THE PRESIDENT: Thank you very much.

DR. SCHUBERT, for the defendant Buergin: Your Honors, I was just informed that the Tribunal expects of me the presentation of one more document book. Yesterday, I introduced the two document books, one of which was Document Book 8, which is obviously before the Tribunal now, in its translation.

When I did that yesterday I gave exhibit numbers to all of the document numbers. I only reserved the right yesterday to submit one more document, but that document I shall not submit today.

THE PRESIDENT: Thank you, very much. Now are there any more documents to be presented to this Tribunal by the Prosecution or by any of counsel for the Defense?

This is a rare occasion, the like of which has not occurred since the 27th of August, 1947, gentlemen.

Dr. Schubert, there is a little uncertainty in our minds about what you meant to say. Do you expect to present another document later?

DR. SCHUBERT: No.

THE PRESIDENT: Very well.

Well, now, gentlemen, there are a number of things to which your attention should be directed. I may say to you that the Tribunal has concluded that notwithstanding that oral arguments are scheduled to begin on June 2, the Tribunal expects to be in session at 9:30 o'clock on the day before, - June 1st, - to enter whatever formal orders may be necessary to officially close the record on the evidence in this case.

Please understand that that is not to receive new or additional evidence, but I shall now enumerate a number of things that may properly be

the subject of some action at that time. For example, there were interrogatories submitted by certain of counsel for the Defense with respect to a Prosecution witness.

You will remember they were sent to Poland to be answered. If those interrogatories arrive, and are on file on or before June 1, they will be made a part of the record in this case. If they have not arrived by that time, and it is apparent that they are not going to be available within time, we shall then comply with the announcement that we made and strike from the evidence the Prosecution's Exhibit to which those interrogatories would be expected to relate. That is one thing.

Certain evidence is being procured in Switzerland now, on behalf of the Defense. We would expect, on June 1, to formally make that evidence a part of the record in this case if it is available at that time.

Another thing that we intended to call to your attention was the possibility of a stipulation between counsel for the Prosecution and the Defense with respect to the time the defendants have been in confinement. If in the meantime you can work out that stipulation, you may place it on file or give it to us. Otherwise we will receive that stipulation on June 1st.

We expect also on June 1 to enter a comprehensive order embracing many of the proceedings had before the Commissioners who have acted for the Tribunal, in the record of these proceedings.

Those are all of the matters that I think of at this time. Just a moment. Now there is another matter has arisen. The Defense introduced in evidence an affidavit of Professor Richard Bieling. The Prosecution

has asked to cross-examine that witness. We learned from an informal conference with counsel that the witness is unable to come to Nurnberg. The Tribunal has suggested that cross-examination of this witness be conducted at Marburg where he lives on Saturday May 15, unless by reason of something unanticipated, that date is not satisfactory.

If counsel who are concerned about this matter will make the arrangements to have that cross-examination conducted at Marburg, and the transcript on file on or before June 1, we shall incorporate it into the record in this case also. I may say to you that a large number of documents have been offered by counsel for the Defense here, without copies being presently available to the Prosecution.

We think that some time ought to be fixed, not too far distant, when the Prosecution may file whatever motions it desires to file with reference to the admissibility of those documents.

How soon, Mr. Prosecutor, can you determine whether you do wish to file any such motion, and let's fix the time now?

MR. SPRECHER: Mr. President, it depends on when we get the translation partly, and I can say this, that I do not think we intend to make any objections as to whether or not any of these documents are proper in our rebuttal. Our objections will be on other grounds. I do not anticipate that there will be many, but until we know the nature of these documents by having copies of the translation, we would like to have the time fixed in terms of the time when the translations have come to us.

THE PRESIDENT: What do you suggest would be reasonable in that regard?

MR. SPRECHER: We are somewhat overwhelmed at this point, and we would like to have a week's time to try to collect all of these miscellaneous documents which have gone in in these last days, and then attempt to consolidate, perhaps, in one motion, the whole matter, so as to save ourselves more difficulties of reference, of which we have enough already.

THE PRESIDENT: Very well. Then please undertake to do that, and send your motion through processing in due course. I may say to you that with respect to a motion which was called to our attention this morning, but which we have not yet received, - it was filed by Dr. Wahl and Dr. Dix, - if we get these motions that are still outstanding, the Tribunal can, without waiting for June 1, pass on them by entering an order and filing it with the Secretary General. We will expect to do that as speedily as possible because we realize that you should have that information before you prepare your arguments and your briefs, if we can give it to you. So as to whatever motions are pending, or may be filed, the Tribunal will undertake to pass on them in advance of June 1 as much as possible, so that you can have the benefit of the Tribunal's ruling.

Now we have some information to the effect that Judge Crawford will not be available tomorrow. Are there some Commissioners' hearings scheduled for tomorrow, gentlemen?

MR. SPRECHER: I had understood, Mr. President, that we had more than congested the Commissioners' schedule and that tomorrow was to be completely filled.

THE PRESIDENT: If we knew the names of the witnesses to be interrogated before the Commissioner tomorrow, we would at this time enter an order transferring those hearings to Mr. Mulroy instead of Judge Crawford.

MR. SPRECHER: I will have to check with Mr. Amchan who has been working on supervising the Commission work for the Prosecution.

THE PRESIDENT: Could you do that Mr. Sprecher?

MR. SPRECHER: If we could take about 5 or 10 minutes recess, Mr. President, we could complete that record?

Yes, Mr. President, we will certainly try to reach him.

THE PRESIDENT: In the meantime, gentlemen, please try to recall if there is anything further that ought to be considered by the Tribunal before we recess permanently, that is, until June 1st. We will rise for about 10 or 15 minutes and save 15 minutes to clean up anything that may be suggested to us. The Tribunal will now rise.

(Tribunal in recess until 1615 hours)

THE MARSHAL: The Tribunal is again in session.

DR. RUDOLF DIX: Your Honors, according to the request of the Tribunal I have made a stipulation with Mr. Sprecher which I have before me and which is signed by both of us. It is a list about the length of the arrest of all of the defendants. I am handing them to the Secretary General. I have already made in writing the motion which I discussed before and which I don't have to repeat.

THE PRESIDENT: Now, will the Secretary please see that the stipulation with reference to the first matter mentioned by Dr. Dix -- that is the period of time that the several defendants have been confined, is distributed to the Tribunal. We should each like to have in our files a copy of that stipulation. As to the other matter, Dr. Dix, as soon as your motion is available to be distributed to us we shall give consideration to it along with whatever response the prosecution has to make and undertake to give you a decision by an order of the Tribunal before the time of the argument, and as much before as we possibly can.

MR. SPRECHER: Mr. President, the NI number for Prosecution's exhibit 2265, which I just mentioned recently, is NI 15300 and I am handing the exhibit over to the Secretary General at the present time. There still has to be checking against the record and I hope we can withdraw it for that purpose.

THE PRESIDENT: All right. That is NI 15300, Prosecution's exhibit 2665.

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: Thank you.

MR. SPRECHER: Now, Mr. President, the immediate load on the commissioner for tomorrow has been somewhat by virtue of the fact that five more inmate affidavits have been withdrawn in the last few minutes, and that leaves, so far as we know, about four people who are in Nuernberg, at the moment although there were a few more that had been asked for pursuant to the older requests that we had made, as I said, up to last week. Therefore we would like to request that insofar as any of those persons who were previously asked for should arrive in Nuernberg, or be present in Nuernberg, they could be heard before Commissioner Mulroy as they could have been heard before Commissioner Crawford if he were not otherwise occupied.

THE PRESIDENT: You don't have their names.

MR. SPRECHER: I have the names of some of them but I think there is some other persons as we are informed that they are either here or may come.

THE PRESIDENT: The only difficulty in the matter, and perhaps that is not insurmountable, is the fact that there is outstanding an order that until the further order of the Tribunal, Judge Crawford would act as commissioner. Now, if we may have no misunderstanding about the subject, the Tribunal is ready to say on the record now that the examinations that were to have been conducted before Judge Crawford tomorrow, 12 May, will instead be conducted before Mr. Mulroy, the other commissioner, because Judge Crawford will not be available according to our information. Now, if you will all take note of that we will make that order without specifically naming the witnesses to be examined because we are not presently advised as to who may or may

not be available. So let that be understood please. Now, one thing further. Tomorrow's examination of the witnesses before the Tribunal will be then end of that matter. You may have the benefit of all the examination that can be conducted by the commissioner within the regular prescribed hours for court for tomorrow. Those that have not been completed will be dispensed with. Is that clear to everybody. Now that, of course, does not include the special examination at Marburg about which we spoke just before the afternoon recess. That is an exception.

DR. NELTP: Your Honors, this morning you made a ruling with respect to Exhibit 1715. Document NI 12452. This is Dr. Tondos' affidavit. You know that the sick reports which are mentioned in that document were missing. You have made a ruling according to which the document was to be stricken unless the sick reports can be made available. You are aware that these sick reports have been found. The day before yesterday you put it to the Prosecution and myself to make a stipulation as to the usage of these reports. When making my comments the day before yesterday I expressed that I considered it extraordinary important that the Tribunal read these sick reports because they contain the contrary of what the Prosecution asserts here, at least in my opinion. I was prepared to agree upon a stipulation with the Prosecution as to the contents of these sick reports. I handed this stipulation to Mr. Minskoff asking him to ascertain whether this was in accordance with his views and whether this stipulation correctly represents the contents of these sick persons, so that the Tribunal may at least be informed of their contents.

Mr. Minskoff just now told me that the Prosecution, according to the ruling of the Tribunal, was not obligated to submit these reports. He said that they were only obligated to procure the sick reports and bring them to my notice. I don't believe that that was the sense of the ruling which was made by the Tribunal. I should like to have your decision. Are the sick reports to be made part of the Tribunal's record? Are they to be used as an attachment to Exhibit 1715, or is the stipulation which I proposed to be made part of the record or is there to be a changed stipulation, according to the prosecution's view that these sick reports should be made part of the Tribunal's record?

THE PRESIDENT: Just a moment. Maybe we can dispose of this matter before the recess time anyway. The Tribunal understood that those sick reports had been made available -- that they had arrived from Poland or wherever they were. We do not take it that the Prosecution is under any obligation to make those sick reports evidence in this case. But Dr. Nelte may do so if he thinks that they complete his showing with respect to the affidavit of the witness. Under the rule that where part of a document is offered and more of it is available to the opposing counsel, he may offer the omitted parts. We understood that the practical problem we were concerned about was the magnitude of the processing job -- that these documents were quite voluminous and that it would impose an undue burden. It was that that prompted us to suggest the possibility of a stipulation. Of course there is no obligation upon counsel to agree to a stipulation that is not

acceptable for him. In that connection you gentlemen have been very very helpful in many instances in solving problems of that kind, all of which convinces the Tribunal that this recess that is just ahead of us perhaps is not too soon. Apparently your nerves are such that you can't very well deal on those subjects any more. But be that as it may, Dr. Nelte, you may offer those sick reports in evidence at this time if you wish to do so. But the original in the hands of the Secretary General and if it is necessary to burden the Prosecution's staff to translate and mimeograph the whole document, that will just have to be done. If, in the meantime, under the relaxation of a recess, you gentlemen can agree upon a stipulation, that will save time of the prosecution's staff for your arguments and briefs. It would perhaps promote the best interests of all concerned. What document number would you like to have those sick reports bear, Dr. Nelte, and what exhibit number? We will place them in the record and make them a part of the evidence and then you may have them processed. In the meantime, as I say, if you gentlemen can work out some simple stipulation that will relieve the administrative side of this agency, I am sure they will appreciate it and you will get the benefit of it in a little better service in your arguments and briefs.

L.R. MINSKOFF: Perhaps, Mr. President, they can be deemed marked in evidence without going through the necessary processing and give it the exhibit number in evidence instead of identification.

THE PRESIDENT: Dr. Nelte is entitled to have them, under the rules, processed, if the problem can not be met some other way. Let them

11 May.48-A-GJ-27-6-Mills-
Court 6 case 6

have a document and exhibit number now. I take it on behalf of the
defendant Hoerlien, and placed

in the Secretary General's files and then Dr. Nelte, if you and counsel for the prosecution can not work out something with reference to a stipulation or an agreement, kindly advise the Secretary General that you wish to have the documents processed and we will get them in due course. What document number do you wish the sick reports to bear, Dr. Nelte?

DR. NELTE: Exhibit Hoerlein 143.

THE PRESIDENT: Do you remember what your last document number -- it doesn't make much difference. You can give it any arbitrary document number.

DR. NELTE: Document Number 215.

THE PRESIDENT: Thank you. Document 215, Exhibit 143, on behalf of the defendant Hoerlein, is now in evidence, and we leave it to counsel to work out the problem of the processing. If they can not agree it may be processed in due course.

DR. NELTE: Now, Your Honors, there is a last matter. Document Hoerlein 79, Exhibit 71, was an affidavit of Dr. Karl Koenig. I have offered this document in Hoerlein's presentation of evidence and the Prosecution voiced certain misgivings as to some parts and to some of the formulations contained in that affidavit. I may recall that this affidavit was a confirmation of Dr. Koenig's interrogation by counsel for the Prosecution. In accordance with a suggestion of the Tribunal, I asked Dr. Koenig to formulate the material contents of his former affidavit as I considered it proper and as I considered it to be admissible.

Therefore I should like to withdraw Hoerlein document 79 and substitute it with this other document, Hoerlein 79, which is to bear the same Exhibit Number 71.

THE PRESIDENT: That will be confusing. Let's give the new document Document Number 216 and Exhibit Number 144 and the record may show that Document 79, Exhibit 71, Hoerlein is withdrawn from evidence.

DR. NELTE: Very well.

DR. SIMPERS: Your Honors, I should like to refer you to two matters. On 29 April, when introducing my document book 2, I made a motion to reconsider the former decision of the Tribunal with respect to my motion of 28 August and 2 September 1947, according to which all the Schnitzler affidavits are to be denied because they have been written under duress and because the testimony is based upon the reference to the Control Council Law according to which every German was obliged to give information. This letter is proven by my document, Exhibit 28, Document Number 26. For the record, I may recall that this motion of mine is still outstanding. I mean the motion where I asked the Tribunal to reconsider the former motion. I assume that the Tribunal is not yet ready and not yet prepared to decide on this matter because this morning there was still evidence on this point which has not yet been completed.

Second and last, I should like to recall that this morning I asked to call the other witness, Dr. Ilgner, if possible, before this Tribunal in this very courtroom. You, Your Honors, said that this question was to be postponed and that we were going to see whether

there would be some time for that tomorrow. For the sake of orderly procedure I may just recall that to your mind in order that my request be not forgotten.

THE PRESIDENT: We had hoped that perhaps during the day we might find time to permit you to examine Dr. Ilgner and if it was a matter of just hearing Dr. Ilgner we might sit tomorrow for that purpose. But it now appears also that it is likely that the Prosecution may have some witnesses to produce in connection with the same matter and the Tribunal now refers to interrogation of Dr. Ilgner and any testimony that the Prosecution may wish to offer in connection with the same matter, to the commissioner who will hear you during the time the Tribunal is in recess at such time as you are ready to present it.

DR. SIMERS: I may assume Your Honors that I will be in a position to submit further material before the commissioner dealing with the same subject as far as it is necessary in connection with the Prosecution's presentation. Naturally I shall only continue myself to the subject.

THE PRESIDENT: That is correct. You may supplement the testimony of Dr. Ilgner with any other evidence that you have that is available that bears on that subject and the same applies to the prosecution. You will not, of course, expect a ruling on your motion while that matter is under consideration because we should like to have the benefit of the whole picture before we pass on the motion.

DR. SMIDL: Your Honors, two very brief matters. The Secretary General was kind enough to point out to me that in the presentation of

of documents on behalf of the defendant Duerrfeld, one document number has been used twice in the presentation of exhibits. I should like to correct that error here for the record and ask the Tribunal to take due notice of it. In Document Book Number 14 on behalf of the defendant Duerrfeld on page 121 the document number 1253 is to be changed to Number 1254. Exhibit 154 should bear the Document Number 1254.

THE PRESIDENT: Very well.

DR. SEIDL: The second point is the following. The Prosecution, as I was informed, introduced a rebuttal document yesterday, Exhibit Number 2262. The NI number is 15299. This is an affidavit of one Herbert Ungar. In this affidavit reference is made to two further documents which were offered for identification only. I should like to ask the Tribunal to inform me within what period of time we have the right to object to that rebuttal document and what time we have to substantiate that objection. Until the present I have had no opportunity to look at these two documents which are being referred to. I think that the Tribunal will desire a written substantiation of any objection.

THE PRESIDENT: That is correct, Dr. Seidl. After all it is a matter of more pressing concern to you than it is at this time to the Tribunal because naturally you will expect to have a ruling as well in advance of your argument and briefing as possible. May I say to you that if you will get it in just as promptly as you can under the circumstances we will try to be equally as prompt in ruling on your own motion.

MR. MINSKOFF: Mr. President, in connection with this problem there is a technical problem and if any objection is made to that we might try

to meet it right off. The two documents referred to are rebuttal documents and have been given NI numbers and have been placed with the General Secretary where it is available to Defense as well as Prosecution. The document introduced in evidence which was referred to is a certification of the contents of the two NI numbers. Now, if the objection runs to the fact that the two basic NI documents have not been introduced in evidence they can be introduced if the defense wishes us to process these also.

DR. SEIDL: At the moment I can not decide as to what matter our objection is to be directed because I simply haven't seen the documents yet. Exhibit 2262 is an affidavit which not only confines itself to a certification but which, in reality, also contains a very one-sided interpretation of these two documents.

THE PRESIDENT: Well, Dr. Seidl, it will suffice to say that you should prepare your motion as soon as you have familiarized yourself with the documents, if you desire to present the matter. Gentlemen unless there is something further to be said this Tribunal is about to recess until June 1.

DR. NKLITZ: I beg your pardon Your Honors. The Prosecution with respect to the affidavits of Dr. Keening, has told me that they had looked through them and they pointed out to me that in one paragraph, that is question number 10 on page 8, a new fact is being discussed which was not contained in the former affidavit. The third paragraph of the tenth question on page 8 will not be introduced by me in order that there may be no conflicts between the prosecution and myself.

11 May. 1E-A-GJ-28-6-Mills-
Court 6 case 6

THE PRESIDENT: The record will so show, Gentlemen, this Tribunal
is now in recess until 0930 o'clock on 1 June

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Eisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savelsberg	14387-14424
11 May 1948	Karl Runscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14182-14194

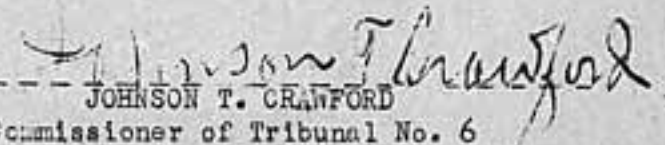
During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	11036	11145
2305	11034	11182
2306	15070	11183
2307	11236	11302
2309	11232	11312
2311	15062	11327
2312	15063	11330
2314	11257	11468
2315	13524	11473
2316	11256	11473
2317	11251	11485
2318	11252	11476
2319	11014	11482
2320	11039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	11098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

Official Transcript of Hearing before a Commissioner for Military Tribunal VI, Case VI, in the matter of the United States of America against Karl Brauch, et al, defendants, sitting at Nurnberg, Germany, on 11 May 1948, Commissioner Johnson T. Crawford, presiding.

THE MARSHAL: The Commission for Tribunal VI is now in session.

MR. MINSKOFF: The witness Fuerstenberg should be on the stand now for the balance of the cross examination.

THE COMMISSIONER: The Marshal will call the witness.

Just have a seat. The Witness will be seated. The Prosecution may proceed.

CROSS EXAMINATION — Continued

FRANZ FUERSTENBERG — Resumed

BY MR. MINSKOFF:

Q. Mr. Witness, in connection with the questions we put to you yesterday about the convictions against you of a criminal nature, I would like to put this final question. Isn't it a fact that in view of the decision of the Court punishing you that you were forbidden thereafter to give testimony under oath in any case? Aren't you, at the present time, violating that judgment and committing a crime by testifying here?

A. It is up to the Tribunal to decide this.

Q. Mr. Witness, did you inform the Tribunal in advance so they could decide this question that you had been forbidden by a previous Tribunal ever again to give testimony under oath?

DR. SEIDL: Mr. Commissioner, I request that the last question and answer be stricken from the record. I object to this question which was

14377



put to the witness. It is merely a question of law and the witness is not able to answer it. The witness already pointed out justifiedly, that it is up to the Tribunal to decide this.

MR. MINSKOFF: The last question was purely a question of fact. The Prosecution asked the Witness, did he inform this Court of the previous decision saying that he could never testify again so this Court would be able to make its own decision, as to whether they want to hear him or not. It's purely a factual question ascertaining whether or not he informed this Court that he was previously convicted and adjudged never to testify again.

BY MR. MINSKOFF:

Q. Now, could you answer that question, Mr. Witness.

A. No, I did not realize that I had been forbidden to give testimony for the rest of my life.

Q. Wasn't the judgment read to you when you were convicted?

A. The judgment is always announced. It said my judgment that I was not to testify as a witness or expert, but no term was given.

Q. Mr. Witness, we also spoke yesterday about your seeing other inmates in connection with testimony before this Court. Now, there are one or two questions I want to put to you.

A. Please do.

Q. Mr. Witness, in October 1947, did you receive 2,000 Reichsmarks through the Dresdner Bank Ludwigshafen?

A. Yes.

Q. From whom did you receive that?

A. I don't know any more who sent this money off. The bank transferred it to me. This was the money as compensation for my trip.

Q. For what trip?

A. The trip to Berlin.

Q. On whose behalf?

A. In Berlin I had to live off the black market without a ration card and I had to pay for my subsistence there, and all expenses.

Q. And who gave you this 2,000 Reichsmarks to do that?

A. The Defense.

Q. In this Case? In this process?

A. I didn't quite understand that.

Q. When you said the Defense, you mean the defense in this case?

A. Yes.

Q. Now Mr. Witness, did the Dresdner Bank also transfer to you 3,000 Reichsmarks in November, 1947?

A. Yes.

Q. And was that also from the defense in this case?

A. Yes.

MR. MINSKOFF: Thank you. I have no further questions.

DR. SLIDL: Dr. Seidl.

REDIRECT EXAMINATION

BY DR. SEIDL:

Q Witness, I would like to ask you again whether the conviction you got at the time because of perjury was connected with the proceedings which was filed against you in 1925 because of the crime against Paragraph 1, Section 1 of the law on betrayal of military secrets?

A It was somehow connected, not directly connected with this matter.

Q I have an excerpt here from the punishment register made out on 1945 by the Criminal police in Essen. There the only conviction entered is the conviction of the Kammergericht in Berlin of 10 December 1925. It says here "convicted because of an attempted crime against Section 1, Paragraph 1, of the law on betrayal of military secrets," and the conviction listed here is five years penitentiary, 5 years of loss of civil rights, and supervision by the police. I submit this punishment register for identification as Number 470, and no other crime is entered upon this list. I would like to ask you now, the other convictions which you mentioned which are not listed here, were they stricken off the record after the military collapse of Germany at your request?

A I did make such an application, and I was informed that those convictions would be crossed off the record.

Q In this punishment register of the police in Essen nothing is mentioned that you are not able to testify before a Tribunal as a witness.

11 May 48-MJJ-3-2-Spears-
Court 6 case 6

A No.

Q During the direct examination I have already asked you whether you were commissioned from Ludwigshafen to contact other witnesses who were also formerly inmates and to ask them about conditions in the camp. I would like to ask you again, how long did you travel in all?

A I was active for the defense for two months in all, and for those two months I had to be paid because I was not earning any other money.

Q The money put at your disposal does not include only the expenses you had during the trip but also the loss of earnings?

A That is correct. In Berlin I had to spend 250 to 300 marks a day; if one wants to live without a ration card, lunch alone costs 100 to 120 marks, and supper also costs 100 marks. Adding other expenses I spent almost 300 marks a day.

11 May 48-MJJ-3-2-Spears-

Q DR. SEIDL: No further question to the witness.

RE CROSS EXAMINATION

BY MR. MINSKOFF:

Q During the direct examination I have already asked you whether Mr. Witness, when you speak of this first crime in '25 by giving away military secrets among other things, that was against the Weimar Republic, was it not?

A I would like to ask you again, how long did you travel in all?

A It was a violation against the law of the Weimar Republic, of course

A I was active for the defense for two months in all, and for but at the time an opposition still existed. In particular in the movement of the Panzerkrouzer. The German National Party, the Bavarian

People's Party and the social Democrats voted in favor of it, while the

Pacifists, the Communists, and other parties objected to it.

expenses you had during the trip but also the loss of earnings?

14381

A That is correct. In Berlin I had to spend 250 to 300 marks a

day; if one wants to live without a ration card, lunch alone costs 100

to 120 marks, and supper also costs 100 marks. Adding other expenses

I spent almost 300 marks a day.

11 May 48-MJJ-3-2-Spears-

Q DR. SEIDL: No further question to the witness.

RE CROSS EXAMINATION

BY MR. MINSKOFF:

Q During the direct examination I have already asked you whether

A Mr. Witness, when you speak of this first crime in '25 by

giving away military secrets among other things, that was against

Q Mr. Witness, I just want it clear on the record that when you gave away military secrets, it wasn't under the Nazi Regime but it was under the Weimar Republic, that is all I wanted to know?

A Yes.

MR. MINSKOFF: I would like at this time, if it please the Commission, to offer in evidence a document which has not yet been processed. I just have it in German and it hasn't even got a NI number. I would like to identify it in the meantime in order to enter it in evidence. According to what the Tribunal said, we could offer documents at this point even though they haven't been fully processed. It is a record dated 7 April 1948 from the punishment register of Bochum concerning the record of Franz Hilarius Fuerstenberg and I would like at this time to have that document considered in evidence, and we will complete the record by giving it an NI number and Exhibit Number, just as soon as we can clear the papers through.

BY MR. MINSKOFF:

Q Now, Mr. Witness, just one final thing. In addition to the 2,000 and 3,000 Reichsmarks that you received in October November of '47, what else other than money did you receive from Ludwigshafen as payment for seeing these witnesses and making those trips you spoke about?

A I did not get any other compensations for my trips from Ludwigshafen. Nothing else was given me by the defense for my trip and my work.

Q You never received any material?

A I myself have received no materials from Ludwigshafen, however Dr. Alt negotiated with the sales department in Ludwigshafen for me,

and I had two shipments of glue sent to two firms one each and these firms paid for these two shipments I did not.

MR. MINSKOFF: Thank you. No further questions.

REDIRECT EXAMINATION

BY DR. SEIDL:

Q Witness, I asked you already yesterday whether it is correct that you signed an affidavit already on the 30th of July 1947?

A Yes.

Q I also asked you whether the second affidavit of 10 February 1948 differentiates on important points from the first one?

A Only the one addition about my emigration.

Q I would now like to ask you concerning the two amounts of money which you just mentioned as compensation for your trips.

MR. MINSKOFF: Mr. Commissioner, I again object to asking if the two affidavits were the same. If this commission of this court has no opportunity if they were not in fact the same -- he is speaking about a document that has not been introduced in this court has not been identified and not been introduced in evidence. I object to any question asked in respect to that.

DR. SEIDL: I said already yesterday that we did not intend to use the first affidavit any further because it contains the same as the second affidavit except for one sentence. I merely want to ask the witness now whether he received the amounts named which he received as compensation for losing his earnings after 30 July 1947?

THE WITNESS: Yes, after 30 July 47 a few months later.

DR. SEIDL: No further questions.

COMMISSIONER: No further questions of the witness? The witness is excused.

DR. SEIDL: Mr. Commissioner, in order to do justice to the objections by the prosecutor, I now want to identify the affidavit of the witness Fuerstenberg, of 30 July 1947. I want to offer it as exhibit 471. for identification.

MR. MINSKOFF: Is that for identification or evidence?

DR. SEIDL: I conform the requests of the prosecution here. If the prosecution prefers that the affidavit be introduced in evidence, then I am willing to introduce it as evidence, but if it suffices to the prosecution if it is merely introduced for identification then I will merely give it a number for identification. Mr. Commissioner I personally don't care either way because except for the limitation mentioned by the witness the affidavits are exactly the same.

MR. MINSKOFF: The only comment that the prosecution has is that if it is in evidence the document can later on be commented upon. If it is not in evidence it can't be. So the preference of the prosecution is, of course is that it be in evidence, and if it the same, it will be all right.

COMMISSIONER: All right, it will be considered in evidence. The witness may be excused.

DR. SEIDL: Seidl for Duerrfeld. Mr. Commissioner, the next witness would be the witness, Dr. Savelberg, but I said already yesterday that the witness is fit to give testimony, but that he cannot come into the court here.

In that case, the examination would have to be carried out in the witness house next to the court house and the witness is now prepared to be examined there. He is in Room 42 of the witness house.

COMMISSIONER: What does the prosecution say about that?

MR. MINSKOFF: The prosecution is perfectly willing to meet the special circumstances of this case, if it is possible to set up the necessary staff for taking the minutes and translating, and if the commissioner is willing to sit over there.

COMMISSIONER: Who is calling this witness, you or the defense?

MR. MINSKOFF: This witness is a defense witness who is being called for cross examination by the prosecution.

COMMISSIONER: It is up to the prosecution to say whether or not he want him to be examined.

MR. MINSKOFF: Well, we are perfectly willing to have this man examined.

COMMISSIONER: Are you just willing or urgent or you don't care?

MR. MINSKOFF: He is an important witness, Mr commissioner. He is an important witness and we want to examine him. It is only a question of where. And upon the defense statement that he is unable to be here, the prosecution would like to accomodate them by going over to the witness house and taking the examination there.

COMMISSIONER: Well, how are we going to do that about interpreters and all these things?

MR. MINSKOFF: The technical staff, it has indicated yesterday they thought it was possible to take the minutes and do the interpreting over at the witness house.

COMMISSIONER: Have you another witness to put on now--any witnesses except that one?

MR. MINSKOFF: Well, it would sort of upset the schedule if we switch it around.

COMMISSIONER: Say in 15 minutes we will go to the witness house and take the testimony.

MR. MINSKOFF: That will be satisfactory.

COMMISSIONER: We will recess for 15 minutes and the prosecution will see to having everyone over there that is necessary. The Commission will be in recess until further notice.

(A recess was taken.)

(The Commission adjourned to the Witness House, Room No. 42, to hear the testimony of Defense Witness Dr. Heinz Savelsberg. Commissioner Johnson T. Crawford presiding.)

R. SEIDL: Mr. Commissioner, the next witness is the witness Dr. Heinz Savelsberg.

THE COMMISSIONER: Is the Witness ready to be sworn, Dr. Seidl?

DR. SEIDL: Yes, sir.

THE COMMISSIONER: The witness will raise his right hand and repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

THE WITNESS: I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

DR. SEIDL: Mr. Commissioner, I wish to list the affidavits with the Defense submitted for this witness. The first affidavit is in Book II for Duerrfeld. It is on page 1, and bears the number Duerrfeld 43, and was submitted as exhibit 22. The second affidavit is in Document Book 13, on page 13. It bears the Duerrfeld Number 1007, and was submitted as Duerrfeld exhibit 315. The third affidavit is in Volume 15. Volume 15 contains three affidavits. The first part is on page 33. It bears the Duerrfeld Number 33, and was submitted as Exhibit 158. The second exhibit is on page 48 of this document book,

it bears the number 1146, and became exhibit 359. The next affidavit is on page 60 of the document book. It bears the number 1228, and was submitted as exhibit 166. The last affidavit is in Document Book 14, on page 60. It bears the Duerrfeld number 426, and was submitted as exhibit 351.

Those are all the exhibits which I have submitted from this witness. We have no further questions to this witness.

THE COMMISSIONER: The witness will be examined by the Prosecution.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q Mr. Witness, in your affidavit on page 3 of Document 2, your book 43, exhibit 2 for Duerrfeld, you state, "I am convinced that the inmates in Camp IV received an average of 2,500 to 3,000 calories per day." Now Mr. Witness, these inmates of Camp IV were concentration camp inmates, were they not?

A Yes.

Q And if I understand your affidavit correctly, you state they were under the jurisdiction of the SS?

A Yes.

Q Now will you tell the Court whether these inmates under the jurisdiction of the SS received the same number of calories as the Eastern workers who were under the jurisdiction of I. G. Farben?

A The statement in my affidavit mentions 2,500 to 3,000 calories. I remembered these facts at the time when I executed my affidavit. I already knew then, that the calories given to inmates and other free foreign workers were not the same. At the time I did not know the individual figures for each different group. According to documentary material which I have seen in the meantime, the calories given to inmates insofar as the supplies were concerned, had to be supplied to Camp No. IV by us.

Q One moment, Mr. Witness. Let me repeat the question and we can probably save time. What I asked you is, could you tell the court whether the inmates under the jurisdiction of the SS received the same number of calories as the Eastern workers who were under the jurisdiction of I.G. Farben? Now, in that question I am not asking for all detailed figures. You can say they received the same, or they received more, or they received less.

A May I make a short remark?

Q Yes, of course.

A My testimony up to now was merely to explain the 2,500 to 3,000 calories. These figures were to be corrected according to the knowledge which I have since gained. I think that is necessary, in order to answer your question correctly.

Q Of course, if you want to change the figure of 2,500 to 3,000, you may do so.

A I want to determine the figure more accurately. With
14389

a clear conscience I can say that the allocation to the inmates, inclusive of our supplies to the inmates, amounted, on an average, to at least 2,400 to 2,500 calories. They came to about that.

Q Now Mr. Witness, the figures 2,400 to 2,500 calories are on the record. I now put the question to you, could you state to this Court whether these inmates of the concentration camp who lived in Camp IV, Monowitz, and were under the jurisdiction of the SS, did they receive the same number of calories as the Eastern workers who were under the jurisdiction of I.G. Farben?

A According to my recollection, the number of calories given to inmates amounted at least to the same number as those given to the Eastern workers and the Poles. The reason was that they received 80% additional food for heavy labor for the inmates, and only 20% for long working hours.

Q Now, if I understand your testimony correctly, I.G. Farben at Auschwitz provided less food for their own Eastern workers who were completely under their own jurisdiction than was given to the concentration camp inmates who were under the jurisdiction of the SS? That's correct, is it not?

A That is correct and can be seen in the allocation lists.

Q Now Mr. Witness, concerning the food supplied to the Eastern workers, isn't it a fact that these Eastern workers received, for breakfast, precisely nothing?

A I never heard that and I don't know this.

Q Mr. Witness, what was your position in I.G. Auschwitz?

A I was in charge of the Sales Department of the Business office.

Q Now, did that include the kitchen and the procurement of food?

A Yes.

Q Is it your testimony here today that you hear for the first time now that the Eastern workers received nothing for breakfast?

A That's the first time I hear of this.

Q Mr. Witness, perhaps I can refresh your recollection by showing you a document introduced by the Defense. It is Duerrfeld Document Number 1061, and appears on page 36 of the document book No. II, Duerrfeld 36 of the English.

DR. SEIDL: Mr. Commissioner, I must object to that question. I must also object to the submission of this affidavit of the Defense. The reason is that the Prosecution did not tell the witness about the fact that the Defense read a remark into the record when they submitted the document, which shows that the document is incomplete because the list of cold foods is not included here. When submitting this affidavit the Defense mentioned another document which is also contained in the document book for Duerrfeld, and which originates from a man called Kavar. This man Kavar says expressly how this document by the Defense is to be understood, namely:

That the list of the cold foods has to be added. This addition, which was not shown to the witness, has to be corrected. This is exhibit 28 for Duerrfeld.

MR. HINSKOFF: May I state for the record that what I was referring to was not an affidavit, but a chart showing the menu given to the Eastern workers. Now, if Dr. Seidl objects to using that menu without the explanation given by his own affiants, it so happens that the Prosecution has a document of its own which is NI-15296, which is a complete series of 4 menus for different types of workers, and the Prosecution offers this as its exhibit in evidence. I believe it will be exhibit 2353, which is the original menus, all subscribed by I.G. underneath, and now the witness is shown this document and his attention is referred to the page which deals with Eastern workers and the question is repeated to the witness, does that refresh his recollection that the Eastern workers were provided no breakfast whatever?

DR. SEIDL: Mr. Commissioner, I would like to object to the admission of this document because this obviously is a rebuttal document. I further object because this is partially exactly the same sort of menu which can be found in the Defense document book, and which was submitted by the Defense as exhibit 27. The same objection applies to this document, namely: That this document is only understandable if the addition is made so that it might be grasped in its entirety.

Mr. Minskoff: "r. Commissioner, the Prosecution merely wants to go on the record that the explanations Dr. Seidl or his witnesses make may be offered for whatever they are worth. But the documents which purport to be complete documents of the menus, and they contain no such additions as Dr. Seidl refers to, must be read for what they contain. The meals provided to the workers at I.G. Auschwitz when the Farbon management was in charge, show in previous documents what menus were provided for the workers. Any explanation by the defense through witnesses during the course of a trial could hardly modify the clear terms of the document itself, and one further statement, it should be noted that the document contains 4 types of menus. All the other menus show the breakfast that was provided. The only one which shows no breakfast is that for the Eastern workers. Now...

THE COMMISSIONER: All the objections will be noted. The lawyers are testifying instead of objecting, and if you make your objections concise and short, the lawyers will not testify. Just make objections.

BY MR. MINSKOFF:

Q Now Mr. Witness, did you understand the question?

A Yes.

Q Now, I ask you whether the document which was just shown to you refreshed your recollection that of the four categories of workers listed in that document, the only one which shows no breakfast is the category of Eastern workers.

A These documents seem to be incomplete. For instance, the menu for the heavy manual laborers for the kitchen. According to this, the supply and the food given to the Polish kitchen is clearly distinguished from the food given to the heavy manual laborers and those working extensive hours. This distinction, according to this document, was not made in the case of Eastern workers. But apart from the fact that no worker of I.G. Auschwitz remained without breakfast, the food for Eastern workers and the cold food for Eastern workers and Polish agricultural workers does not seem to be listed here. I cannot answer that question for certain from my memory, but I am sure that my associates, Herr Reinhold or Kavar, could probably confirm this.

Q Witness, do you know who prepared those menus?

A These menus were made out by Herr Hartinger, - as you can see on the document - as the kitchen inspector, in collaborating with the Supply Direction Office of Herr Kavar, but probably also in collaboration with Herr Bohm.

Q These are all I.G. Farben people, is that right?

A Yes.

Q And when these figures were prepared in this menu did that become an official document of I.G. Farben?

A Official document? Well, no, it was a business record, an operational record.

Q As a matter of fact, Mr. Witness, weren't these menus

to the I.G. Farben management and used by them to show what food the various workers got?

A These menus were used in the Department of Supply and Equipment, and they had full responsibility for these matters. I and several other officers of the plant, probably also the plant physician, the personnel department, and the social welfare department of the firm, subsequently received these reports weekly, but that was only a matter of inter-office information.

Q Now, Mr. Witness, do you recall providing these menus for the purpose of having them included in a complete report that I.G. Farben prepared to show all the conditions at Auschwitz, the facilities at Auschwitz, and the food at Auschwitz?

A You mean to outsiders?

Q A complete published book concerning I.G. Auschwitz.

A I know nothing about the publication of such a book.

Q I don't mean publication in the sense of sale to the public, but a book was prepared and bound up in a regular volume which included the food given to the workers of I.G. Farben and where these menus were included.

A I don't remember whether the documents were contained in this book. I only recall that there was such a volume concerning the social work done at I.G. Auschwitz and also in the plant, but I don't remember the exact documents.

Q At any rate, there is nothing in these menus which

indicates that anything other than that which is listed was given to the various persons. Isn't that true? I will withdraw that question.

Mr. Witness, do you recall what the Eastern workers received for lunch?

A Well, not specifically.

Q Well, did they receive anything more than plain soup?

A Excuse me. The concept of lunch probably would lead to confusion. The people got their main meal at night and not at noon.

Q Mr. Witness, I didn't speak about main meal; I said noon meal. Did they receive anything more than plain soup at noon?

A No, but most of the Germans also didn't get anything else. Only those Germans who could go to the "1000 Man Hall" could eat there, but otherwise they just received soup.

Q But of course the Eastern workers had no right to go to the "1000 Man Hall," did they?

A Well, of course, they were too far away; only those Germans who were working near there could go there.

Q Mr. Witness, isn't it true that even this soup, which is all they had for lunch, was divided into three types of soup, so that the Eastern workers got a poorer form of that soup than the German workers got?

A I don't remember three different soups, only two different soups.

Q Well, the third one is the inmates' soup; isn't that right?

A That was prepared in an entirely different kitchen.

Q Mr. Witness, these Eastern workers, did they have office or clerical jobs or were they doing laboring work?

A I don't know their specific work in detail, but I assume that they were also employed at white collar jobs, perhaps in the various workshops, in laboratories, and so forth.

Q Mr. Witness, just so we don't have any confusion on the record, would you say that at least 90 per cent of the Eastern workers were not office workers?

A I am afraid I don't remember the exact figures.

Q Now Mr. Witness, the document which I just showed you, Prosecution Exhibit 2353, has one menu which was omitted from the Defense Document 1061 and that is the menu given to the German employees. Isn't that so? You have that in front of you, Mr. Witness.

A I don't know whether or not that was omitted.

Q Now I showed you two documents, Mr. Witness, one in the Defense book and one you are holding in your hand, which is Prosecution Exhibit 2353. I say, isn't it correct that the Prosecution Exhibit is identical with the Defense exhibit except that we have an additional menu, that is, the German civilian menu which was omitted from the Defense document?

DR. SEIDL: Mr. Commissioner, I do not wish to register a formal objection against the question, but I only want to state that the menu was omitted because Farben is not indicted for having given bad food to the German workers. Apart from that, these are entirely separate menus and the Defense, for practical reasons, put these three menus together in one document.

MR. MINSKOFF: Well, just for the record I might say perhaps it is a coincidence that the document that the Prosecution introduced was found all in one piece, all four menus together, and I call it to the witness' attention for the purpose of putting this question to him.

BY MR. MINSKOFF:

Q Mr. Witness, isn't it a fact that these clerical workers the German employees, did no hard labor but were all office workers?

A Well, from the term office workers you can already see that those were not people doing physical labor. Besides, Farben had to follow the official regulations, in connection with the food of these various people, this was regulated by law.

Q Now, Mr. Witness, isn't it a fact that these German clerical workers who did no hard labor received for breakfast 350 grams of bread, 25 grams of butter, 62½ grams of cheese and some coffee?

A Yes, but of course not every day. That varied every
14398

morning.

Q That is correct, Mr. Witness. On other days is it not true that instead of cheese these German clerical workers received liverwurst and other meats and marmalade in addition to their bread butter and coffee? Isn't that so?

A Yes, that is so.

Q Thank you. Now, Mr. Witness, in view of your testimony that the inmates received some 2400 to 2500 calories per day, can you state -- and you may refresh your recollection by looking at the German menu -- about how many calories the German employees received per day?

A With the German office workers you have to distinguish two groups: the group that was given food in the camp --

Q One moment. It would be easier for the record if you just refresh your memory as I suggested before by looking at the particular menu, so the Court will have before it a particular group who received particular food and these persons were camp fed, I believe.

Now, as to those persons who were camp fed, how many thousands of calories would you say they received?

A Calculated on the same basis as the statements that I made in connection with the inmates, these German office workers received 2600 calories.

Q Now, Mr. Witness, you take just one day's food, as an example, Monday, the first day. It is dated 7 December 1942

in your document NI 14296. Will you read the breakfast menu?

A 350 grams of bread, 25 grams of butter, 62½ grams of cheese, and coffee.

Q And now will you read the lunch menu?

A Soup, Koenigsberg meatballs, boiled potatoes, and Capern sauce.

Q And the evening meal?

A Potato soup, turnips, and peppermint tea.

Q Now, Mr. Witness, is it your testimony that the inmates in the concentration camp received for one day's food almost precisely what you just now read because you say it is only 100 calories' difference?

A I can only answer by saying that the amounts of food that were given to us to be supplied to the inmates added to 2400 to 2500 calories.

Q Mr. Witness, it isn't necessary to go that far. If you compare what the German employees get on the menu you just read with what the Eastern workers get on the menus, which is also before you, you will find there is a tremendous difference between the two. You may look at them. Is that correct or is it not correct?

A Well, I am afraid I can't say that just by looking at looking at this list but the allotments for the Eastern workers were at least 220 calories for workers working long hours and 2500 calories for heavy laborers.

Q In other words, even though this menu shows that one may receive about one-fourth or one-fifth of what the other one receives, your testimony is that both are substantially the same?

A But of course the composition of the meals was entirely different. The Eastern workers didn't like butter and meat but they liked potatoes and cabbage very much.

Q Now, Mr. Witness, if you look at the menu before you for the German workers, isn't it true you find 750 grams of potatoes for them also for that noonday meal?

A Officially we weren't allowed to give them any more.

Q The only question, Mr. Witness, is if the German workers who received all the extra food also received 750 grams of potatoes, can you show me on any menu for Eastern workers where they ever received in any meal more than 540 grams of potatoes?

A Nor did the Germans actually eat that many potatoes.

Q They left it over or threw it out? It is on the menu.

A Excuse me. We didn't give them that much if we knew they didn't eat that much.

Q Why did you put it on the menu?

A They got 750 grams but not more than you just said.

Q Well, perhaps you didn't understand my question. In addition to the butter and meat and other things that the German workers received, they received 750 grams of potatoes. Now, if the Eastern workers never received more than 750

grams of potatoes and besides didn't get as much butter or meat, then they couldn't be making up for it by having more potatoes, could they?

A If you compare the breakfast in both menus, which I am afraid is impossible because that for the Eastern workers is omitted --

Q Oh, no, you can compare them; you can look at both menus. On one menu you have a complete course of bread, butter, coffee, cheese, and on the other menu you just have a blank.

A No. I am sure it must be an error in this document, that there is no breakfast listed for the Eastern workers.

Q You listed it for the heavy workers, you listed it for the Polish workers, you listed it for the German workers and it is just a mistake that it doesn't appear there for the Eastern workers. Is that your testimony?

A My testimony is that these documents are not complete.

Q Mr. Witness, did you ever ask an Eastern worker if he liked meat?

A I don't understand your question. I didn't ask them at all.

Q Mr. Witness, you just testified that they only liked potatoes; they didn't like butter and meat. I wanted to know whether you asked them whether they liked butter and meat.

A Well, not exclusively, of course, I said. But they they didn't eat as much of it as the others did.

Q Mr. Witness, in your affidavit, Document 43 Duerrfeld, you state that, "During the whole time I worked at Auschwitz I never heard of a case of hunger edema among the inmates housed in Camp 4." Now, Mr. Witness, in view of the fact that you were in charge of all the feeding and procurement of food, such cases, if they existed, would have come to your attention, wouldn't they?

A Well, I couldn't say that for sure, but I never heard anything about hunger edema and I learned to know what it means only on myself for the first time.

Q Now, Mr. Witness, if, during the last two years that you were at I.G. Auschwitz, more than 900 inmates suffered sufficiently severely from edema and phlegmona as to cause them to be shipped from the hospital of Monowitz to Auschwitz Birkenau, wouldn't such a situation have come to your attention?

DR. SEIDL: I object to this question because up to now no proof has been shown by any of the exhibits that this charge of the Prosecution is based on facts.

BY MR. MINSKOFF:

Q Mr. Witness, in view of the objection of Dr. Seidl, may I show you NI-15299, which is presently in evidence and is a certification of certain statistics taken from original documents which presently are on file in the Document Control Branch of the Office of Chief of Counsel, and those Documents are listed there as NI-15295 and NI-14997?

DR. SEIDL: I object to the submission of this document. This is actually an affidavit by a certain Herbert Ungar, who is a member of the Prosecution in this trial, that is, the Case No. VI in the matter of the U.S. vs. I.G. Farben Industry. In this trial the Court has decided again and again that in cross examining a witness it is not permissible to show him the affidavit of a third party. The Defense, during their case in chief, have tried that and the Prosecution at that time objected to the use of such documents. The Court sustained the objection of the Prosecution. Therefore, it cannot possibly be permissible at this present stage of the proceedings. Now Prosecution tries to use the same procedure to which they have objected a few months ago and which they called not permissible.

MR. HINSKOFF: The Prosecution wishes to state for the record that this is not an affidavit stating facts which is offered to contradict the witness or to impeach the witness. This is a certification of facts contained in a contemporaneous document, which contemporaneous, original documents are filed with the Document Control Branch of OCC. It is in no way an affidavit as to the facts coming from the witness. It is merely a certification of facts which exist in contemporaneous documents available to the Defense and which are merely too bulky to bring into court.

BY MR. MINSKOFF:

Q Now, Mr. Witness, having shown you NI-15229 I now ask you, in your position as the responsible head of the procurement of food for I.G. Auschwitz, did you or did you not know that 900 inmates suffered so severely from phlegmona and edema that they were sent from the hospital ward at Monowitz to Auschwitz-Birkenau?

A No, I didn't know that.

Q Do you know, Mr. Witness, whether edema and phlegmona are the result of lack of sufficient nourishment?

A Yes, I know; for two years now I have known that that is so.

Q Mr. Witness, as the responsible head of the procurement of food, did you know that of the 17,000 inmates working at I.G. Auschwitz, 1800 in the last two years were sent from I.G. Auschwitz to Auschwitz-Birkenau because of weakness and collapse?

A I didn't know that.

Q Mr. Witness, can you state as a person who has concerned himself with procurement of food for thousands and thousands of workers, other than lack of food; what causes weakness and collapse?

DR. SEIDL: I object to the question.

THE COMMISSIONER: The objection will be noted.

BY MR. MINSKOFF:

Q In other words -- well, I won't even press that question then. Mr. Witness, is it your testimony today that even though you were the man responsible for all the food procured in I.G. Auschwitz, that almost 60 per cent of the concentration camp inmates that you were feeding could be shipped from the hospital ward of Monowitz to Auschwitz-Birkenau because of weakness, collapse and hunger edema without any of it coming to your attention?

A I never knew about that. Whether my assistants knew about that I don't know, but in any case not one of them told me about it.

DR. SEIDL: I object to this question and I want it stricken from the record. If the Prosecution referred to Document NI-15229, against which I registered an objection, then I must point out that such a ratio cannot even be seen from the affidavit of the Prosecution.

MR. MINSKOFF: The document speaks for itself.

BY MR. MINSKOFF:

Q Mr. Witness, in 1943 there was introduced by I.G. Farben a system of three feeding groups for foreign workers. Isn't that so?

A I don't remember the details but I know that such a system was installed.

Q Well, Mr. Witness, isn't it a fact that under this system all foreigners were initially placed in what was known

as a second feeding group?

A As far as I remember, yes.

Q And isn't it also a fact that this second feeding group consisted of the so-called normal, legal ration rprovided by the government for foreign workers?

A If I remember correctly, Group 2 did not receive normal rations but received rations for hard laborers.

Q Assuming they are hard workers, the normal ration for hard workers is provided by law for foreign hard workers?

A Yes.

Q All right. Now, Mr. Witness, those foreign workers who had a sufficiently good output, they went into the first feeding group; isn't that so?

A I don't know what was the basis for putting them into Category 1. I can't remember exactly because it was only for a short time.

Q Well, as a matter of fact, it was in effect for about six to nine months, was it not?

A Yes, on the books, but actually most of the foremen didn't cooperate and as a matter of principle put all the foreign workers into Group 2.

Q Now, Mr. Witness, did you or did you not tell the Prosecution in a statement under oath that all foreign workers who were sent to Auschwitz were first classified in the second feeding group and if their output was very satisfactory they

were put into the first group?

A Well, I said here, if his output was very good he was put into Group 1; if his output was very bad, into Group 3. However, this system didn't prove to be efficient in practice and was abandoned after a short time because the foremen hardly ever put people into Group 1 or Group 3.

Q Now, Mr. Witness, will you tell the Court where you obtained the food which enabled you to give extra rations to those in Group 1?

A As I already mentioned, the food rations for hard laborers and those working long hours were provided by law. Therefore, we would have been obliged under the law to give the law to give the worker food in accordance with the work he performed. However, we did not do that but we wanted to give to certain groups of foreigners an average food ration. If now, on the basis of inferior output, the worker received only the food rations that he was entitled to according to the fact that he worked long hours, it was only in accordance with the law, since we were by law not permitted to give him rations for hard labor since he was not a hard laborer. Now, this difference we gave to those people whose output was satisfactory whereby they were entitled to additional food rations.

Q Let's get this perfectly clear, Mr. Witness. The second group received initially the normal ration, which was due to persons who worked hard, which is the heavy ration. You just

testified to that.

A Yes.

Q So those persons who remained in Group 2 received the full ration of hard workers. Now, those persons who go into Group 1, in addition to the hard workers' ration, they get something more, do they not?

A As far as I still remember today, yes.

Q So that in order to give those persons more, others who were working in Group 2 must be reduced below that normal ration for hard workers and put into Group 3 where they got less than the amount provided by law.

A I would like to state very clearly that the cause for this system was not to give bonuses to people in order to raise their efficiency, but it was more to give those people who remained on efficiency level below the normal only that to which they were entitled by law.

Q Thank you. That is what I am trying to find out. Now, if a man is engaged in carrying cement sacks that weigh a hundred pounds, he remains in the same commando carrying 100 pound cement sacks regardless of whether he is Group 1, 2 or 3; isn't that right?

A To this I cannot say yes, because I don't remember the details of actual labor allocation at the construction site and how the people were actually employed.

Q I am not asking for details, Mr. Witness. This is a fundamental question I am putting to you. These classifications

14409

A I would like to state very clearly that the cause for this system was not to give bonuses to people in order to raise their efficiency, but it was more to give those people who remained on efficiency level below the normal only that to which they were entitled by law.

Q Thank you. That is what I am trying to find out. Now, if a man is engaged in carrying cement sacks that weigh a hundred pounds, he remains in the same commando carrying 100 pound cement sacks regardless of whether he is Group 1, 2 or 3; isn't that right?

1, 2 and 3 referred only to output and never referred to the nature of the work; whereas the German law for hard workers only refers to the nature of the work. Now, isn't that correct?

A I don't think so, nor do I believe that that is so, as far as I remember.

Q Did you consider a hard worker a person whose output you were satisfied with or a person who was doing what they call hard labor, like carrying pipes or cement sacks?

A I cannot this question with certainty, but I would say that a man carrying cement sacks was probably automatically put into Group 1.

Q That was regardless of output?

A I can only repeat that I was not familiar with the question of labor allocation in detail.

Q Well, did you know more about it when you gave the Prosecution the affidavit saying that it depended upon whether the work was satisfactory and not on what they were doing?

A Well, to this I suppose I must say that I understood the concept output - efficiency - in a different manner.

Q Thank you. Now, Mr. Witness, in your affidavit you stated in Document 110 Duerrfeld, Document Book 13, that in the course of your repeated inspections of the plant sites you never observed dead inmates lying there.

A I never saw dead inmates.

Q Now, Mr. Witness, isn't it a fact that in the evening when the inmates were marching away from the building site you could see some of them being carried by others?

A Here I would like to refer you to my interrogation which I have here.

Q Now, Mr. Witness, the question is simple and if you understood the question I believe you could answer it. I don't want to know what the document says. I want to know what you are going to say. The question I put to you is, isn't it a fact that you could see inmates being carried by other inmates when they marched away from the building site?

A Yes, that is true. I saw that but I would like to correct or, rather, supplement my statement.

Q All we have before the Court now is your answer that you have seen them. Please Mr. Witness...

DR. SEIDL: Objection. Mr. Commissioner, I would like to ask that the witness be given the opportunity to explain his answer.

THE COMMISSIONER: Yes, the witness can explain.

A On Page 5 of the affidavit that I executed for the Prosecution, I said the following: "I saw that in the evening when they were marching away from the construction site of Farben, several of the inmates frequently supported each other and also that inmates, of which it could not be said whether or not they were still alive since they were lying

there as though they were dead, were carried on stretchers by their comrades." The time at which I saw that is important here.

Q Now, Mr. Witness, as to the time, it is completely irrelevant. The question before this Court is -- if there are any other questions counsel want to raise they can raise them -- is whether you in fact said and whether this was true that you could see these inmates being carried on stretchers by their fellow inmates and because they were lying about lifeless you couldn't even tell whether they were still alive. That is a true statement, is it not?

DR. SEIDL: Objection. Mr. Commissioner, I would urgently ask that the witness be given the opportunity to complete his answer. I definitely do not agree with the Prosecution that the time at which he saw that is irrelevant.

BY MR. MINSKOFF:

Q Dr. Seidl will have all the opportunity on redirect to ask any questions as to time or other things which he thinks might protect his client. For the purpose of the Prosecution the question merely was: did he see these things occur, and if he wants to change his statement he is perfectly free to do so.

A When these inmates marched away from the construction site at night I saw inmates being supported by their comrades and also some of them that were carried on stretchers. In

answer to the question that you just asked me, whether they were dead, I said that it was impossible to see whether they were still alive or not. They were lying on their stretchers as though they were dead.

Q Thank you. That is an answer. Now, Mr. Witness, in your affidavit, Paragraph 2 of the same document, you state that it didn't come to your knowledge that I.G. imposed any worse working conditions upon the inmates than upon other workers. Now, I am not sure that I understand that statement. So you mean that the conditions which were imposed upon other workers were equally bad? Is that what you mean?

A No, but in general I did not hear anything about the fact that the labor conditions of inmates were worse than those of other workers.

Q Well, the reason I asked that question is, for example the Eastern women workers were assigned to doing earth work, shovelling of dirt. Now, were you thinking of these workers when you stated inmates were no worse off?

A I don't understand that question.

Q Well, there were Eastern women workers who were assigned to do heavy digging work, shovelling dirt. Now, were you thinking of women doing that kind of heavy work when you stated that the inmates were no worse off?

A There is no comparison possible, as far as I know, because I didn't see any women among the inmates.

Q Mr. Witness, may I ask you a final question? Is it true that you saw inmates in a poor physical condition carrying heavy sacks of concrete weighing a hundred pounds each? Is that true or is it not?

A I never saw them carrying cement sacks. In my affidavit, it says only that I heard about the fact that they were carrying cement sacks.

Q Well, when you say you heard about it, you are not referring to after the war; during the time that you were at I.G. Auxchwitz you heard they were carrying cement sacks?

A Yes.

Q And that inmates in poor physical condition were doing that?

A I didn't mean that in connection with the carrying of cement sacks, but I was asked what sort of condition these inmates were in that I saw. I said that the inmates initially were in bad physical condition but I believe that there was a change for the better later on.

MR. MINSKOFF: There will be no further questions for the Prosecution.

DR. SEIDL: Mr. Commissioner, I have some questions on redirect, if you will permit me.

REDIRECT EXAMINATION

BY DR. SEIDL:

Q Mr. Witness, you were asked by the Prosecution whether

Camp 4 was under the jurisdiction of the SS and you answered yes. Did I understand you correctly to say that?

A As far as I know, yes.

Q You were further asked whether the food of the free foreign workers was supervised by I.G. Farben. Now I should like to ask you: Were the food rations for Germans and foreign workers chosen by Farben or by some other authorities?

A I beg your pardon. You mean the rations?

Q I mean the amount of rations.

A That was issued by the authorities.

Q Did the authorities also provide regulations to determine who was to be a hard laborer and who was to work long hours?

A According to law every worker on the construction site was supposed to be classified according to whether he was a hard laborer or working long hours. In the interest of all the employees on the construction site, in the course of our negotiations with the Gewerberat, we frequently tried and were also successful in getting a general allotment of 80 per cent for hard laborers and 20 per cent for workers of long hours. If a general extra ration for heavy workers had been asked for, we would have gotten only a 55 per cent addition.

Q In the fixing of food rations did the authorities make a difference between Eastern workers and other foreign workers?

Is that correct?

A Yes, at least at the beginning.

Q Did Fargen have any influence on this distinction being made?

A In no way. I only remember that Herr Reinhold frequently tried to get Eastern workers, Polish workers and all the other foreign workers into one category.

Q Do you remember whether or not the Department of Supply and Equipment of Farben-Auschwitz ever tried to alleviate this as such unjustified difference between Eastern workers and Farben workers, that is to say, within the department, internally?

A I know that efforts in that direction were made. To what extent they were successful, I don't know. That there were possibilities for such action, that is known, because we had huge stocks of vegetables and potatoes; the amounts were hundreds of tons above the actually allocated amounts. Furthermore, we received ready-made soups by the carload which we were able to get ration-free.

Q You were further asked by the Prosecution whether the Eastern Workers received breakfast and now I should like to ask you, was not perhaps the reason for the fact that no breakfast menu for Eastern workers could be made out because three categories of efficiency had been established, and it was only because of lack of space and to save money that the cold food

rations for Eastern workers were put on a separate sheet which is not contained in the documents of Prosecution or Defense?

A Whether this is the reason or not, I don't know, but I remember one thing, that in every kitchen the menu was on the bulletin board and it also included the breakfast; that is to say, if the menu for the Eastern workers only shows soup and dinner and no breakfast, then probably there must have been an inclusive breakfast menu on the bulletin board which probably also included Poles, and so forth, and was made out in three categories.

Q Witness, you were further asked by the Prosecution who received extra rations for heavy labor and extra rations for extensive hours. Now, I for my part would like to ask you, was it not significant that these extra rations were given only to those people who actually performed hard labor or worked long hours and that they were of course not given to those who for instance, were slackers?

A You mean putting them into groups?

Q Yes, that is what I mean.

A Well, I said that before. I answered that question before, that it was the slackers who actually gave us the idea of using that system.

Q Then you were asked about the differences in food allocations between inmates and foreign workers on the one hand, and the German workers on the other hand. Now I'd like to ask you

the following: If you compare the food given to inmates and foreign workers with the calories that, for instance, today in 1948 a normal civilian receives, what is the result?

MR. MINSKOFF: Mr. Commissioner, the Prosecution objects to the question. This witness has shown by his testimony that he hasn't got the slightest idea of what meals constitute how many calories. We showed him menus completely apart on the contents of the food and he testified that one had 2400 calories and one had 2500 calories. He has demonstrated by his own words he hasn't the slightest idea of how to figure calories on the basis of food received.

DR. SEIDL: I am afraid I didn't understand.

MR. MINSKOFF: The objection is that I questioned this man as an expert; that this man, by his previous answers, has completely disqualified himself as an expert. He testified that Eastern workers received 2400 to 2500 calories and that German civilian workers received 2600 calories on the basis of menus which were thousands of calories apart.

THE WITNESS: May I say something?

DR. SEIDL: Prosecution probably didn't quite understand the question, but I don't believe that that is very important. The witness has testified in his capacity as Head of a main department in the Auschwitz plant of the Farben Industry, to which field or work among others also belonged the food allocations. Now, if there is an expert in this field, apart from the head of the supply department, it must be this witness;

but apart from that, I am convinced that it isn't necessary to be more of an expert in order to realize the difference between the food of I.G. Auschwitz in 1942 to 1945 and the food rations which the German civilian population receives today, who also have to perform work on this food.

THE COMMISSIONER: Your objection will be noted in the record, so let the witness proceed.

A I would correct myself in connection with the documents. The caloric figures that I mentioned were certainly not based on the menus before me but on rations which were the official food allocations for 1943 and 1944.

BY DR. SEIDL:

Q Would you please answer my question, Dr. Savelsberg? That was the question concerning the comparison between the food of the inmates and foreign workers from 1942 to 1945 in I.G. Auschwitz, with the food of the German population in 1948.

A Well, the food of the inmates was certainly twice as good as that received today. For instance, per day per man in Camp 4 we issued at least one kilogram of potatoes. Furthermore, an inmate received in one period - that is during any four weeks- as a heavy laborer 1600 grams of meat; as a long hour worker, 1200 grams of meat. Both rations were put into a pool in order to be able to issue them to all inmates. They further got 800 grams of margarine, 13,600 grams of bread,

besides 5 liters of skim milk for one whole period.

Q Witness, do you by any chance know by heart how much meat a German civilian received during May of this year?

A I believe that during May nothing has yet been called up in my province.

Q Do you know that in the American Zone the population, during the whole month of May --

MR. MINSKOFF: The Prosecution objects to Dr. Seidl's testimony.

THE WITNESS: I don't know that.

BY DR. SEIDL:

Q Witness, you were further asked --

THE COMMISSIONER: Now, we have only got about four or five minutes. Can we finish in that time?

DR. SEIDL: Yes, I believe I can finish in five minutes.

THE COMMISSIONER: May it short and snappy.

DR. SEIDL: Yes, Your Honor.

BY DR. SEIDL:

Q Witness, you were further asked whether you saw that inmates were carried out from the plant. Will you please tell me when you saw that and how frequently?

A That must have been at the end of 1941, beginning of 1942, when my office was still at the Krakauer Strasse 25, which was the administrative office. In the morning and in the evening inmates would march by there and then I saw that.

Later on when I went to the construction site, I did not see anything of that and my offices were no longer as close to the plant so that I couldn't notice.

Q Now, when you saw that in 1941 and 1942, was that still at the time when the inmates were housed in the concentration camp Auschwitz and had to march back and forth from the camp every day?

A Yes, that was at this time.

Q Did you see anything like that when the inmates had moved into Camp 4?

A I already saw that when I came to the construction site; later on I never noticed anything of these things.

A Calculating from the food rations, there must have been about 30,000.

Q In such a case could it not have been possible in the case of German heavy laborers and free foreign workers that because of an accident in the plant they had to support each other?

A Well, that may be possible, but I didn't see that. I don't remember.

Q You were further asked about the way the inmates looked and their physical condition. Did all these inmates outwardly look the same, or were there differences?

A I, myself, could not ascertain any detailed differences since I never was in direct contact with inmates, and when I went through the construction site I only saw their uniforms

and their eyes and their hair, and that gave me a sort of uniform picture.

Q Did the outward appearance of the inmates change for the better or for the worse in the course of the years?

A The general impression was, in my opinion, a much better one.

Q If you compare the outward appearance of the inmates in the later years with the outward appearance of the average German workers in the factories today, what would be the result of your comparison?

A I must say that in part the German workers today has a worse outward appearance.

Q Now, two concluding questions: You were the head of the commercial department; is that right?

A Yes.

Q Did you also take part in the main department head conferences which took place every Monday?

A Yes, in general, yes.

Q Will you describe very briefly how these conferences-

MR. MINSKOFF: Wait a minute. There is nothing before the Commission which makes that proper redirect examination. He is just wasting time and burdening the record. We have never asked him about any conferences on cross examination and you are going into a brand new field now.

DR. SEIDL: I withdraw my question and would like to put another question instead of that one.

BY DR. SEIDL:

Q The Prosecution asked you about food given to inmates and foreign workers. Did the plant management ever give any orders which would result in inhuman treatment of the workers especially in connection with the food given to them, and what could you say in general about the spirit in which these instructions by the plant management were given?

A Such instructions were never given. On the contrary, they would have been entirely contrary to the social conscience of the plant management. From my work in Auschwitz I know that it was just Dr. Duerrfeld who was concerned very much with the quality of the food and the quantity. It was always he who gave first advice concerning the procurement of food and its utilization.

DR. SEIDL: No further questions.

MR. MINSKOFF: Mr. Commissioner, may I have just two minutes?

THE COMMISSIONER: I don't think you are going to use two minutes.

MR. MINSKOFF: Just two minutes, Mr. Commissioner.

THE COMMISSIONER: You will just open up another field and I think we have covered everything.

MR. MINSKOFF: I promise to be very, very short.

BY MR. MINSKOFF:

Q Mr. Witness, when you answered the questions about calories, were you basing your figures on the official figures

11 May 1948-M-MSD-7-12-38-Goldberg. (Reischer)
Court VI COMMISSION

on the official figures you were holding in your hand or
on the Farben menus which we handed to you?

A On these official figures here.

Q Not on the Farben menus?

A No.

MR. MINSKOFF: Thank you. No further questions.

THE COMMISSIONER: We will recess until 1:45.

(A recess was taken until 1345 hours.)

CERTIFICATE OF COMMISSIONER

Under directives of United States Military Tribunal No. 6, testimony of witnesses listed below was required to be taken before the undersigned Commissioner. Pursuant thereto the said Commissioner has conducted hearings at which the following witnesses have fully testified:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
8 April 1948	Walter Warlimont	10875-10907
9 April 1948	Kurt Krueger	11128-11163
12 April 1948	Karl Weber	11165-11175
12 April 1948	Paula Ester	11177-11199
13 April 1948	Ernst Struss	11293-11338
14 April 1948 &	Christian Zahn	11444-11490
15 April 1948	" "	11587-11612
16 April 1948	Bernhard Schoener	11706-11723
19 April 1948	Adalbert Feindal	11827-11841
20 April 1948	Josef Grobel	11842-11860
20 April 1948	Gustav Pistor	11861-11878
21 April 1948	Emil de Haas	12098-12128
21 April 1948	Heinrich Schuh	12129-12140
23 April 1948 &	Heinrich Schindler	12337-12370
28 April 1948	" "	12707-12777
26 April 1948	Walter Kikuth	12461-12498
26 April 1948	Hans Sauer	12500-12512
27 April 1948	Wilhelm Duellberg	12598-12621
29 April 1948	Theo Goldschmidt	12871-12909
29 April 1948 &	Anton Reithinger	12910-12953
30 April 1948	" "	13075-13092
29 April 1948 &	Rudolf von Spretty	12954-12960
30 April 1948	" "	13065-13075
30 April 1948,	Rudolf Schmidt	13093-13133
5 May 1948 &	" "	13620-13629
6 May 1948	" "	13651-13719
3 May 1948	Wolfgang Alt	13246-13269
3 May 1948	Carl Gadow	13271-13291
3 May 1948 &	Kurt Hartmann	13292-13316
4 May 1948	" "	13412-13450
4 May 1948	Fritz Dion	13450-13460
4 May 1948	Kurt Bisfeld	13461-13479
4 May 1948	Adolf Taub	13480-13489
5 May 1948	Ernst Struss (for Pros.)	13566-13619
6 May 1948 &	Werner Schmitz	13720-13735
7 May 1948	" "	13861-13891
10 May 1948	Max Winkler	14173-14181
10 May 1948	Fritz Hirsch	14195-14209
10 May 1948	Ernst Kraschewski	14210-14220
10 May 1948 &	Franz Fuerstenberg	14221-14245
11 May 1948	" "	14377-14384
11 May 1948	Heinz Savoleberg	14387-14424
11 May 1948	Karl Munscheidt	14425-14439
11 May 1948	Reinhold	14440-14455
10 May 1948	Friedrich Selcher	14482-14494


During the said proceedings the following exhibits have been offered in evidence:

PROSECUTION EXHIBITS

<u>Exhibit</u>	<u>NI No.</u>	<u>Official Transcript</u>
2302	PS 2353 C	10899
2303	L79	10904
2304	14036	11145
2305	14034	11182
2306	15070	11183
2307	14236	11302
2309	14232	11312
2311	15062	11327
2312	15063	11330
2314	14257	11468
2315	13524	11473
2316	14256	11473
2317	14251	11485
2318	14252	11476
2319	14014	11482
2320	14039	11834
2321	13084	11848
2328	10532	12615
2329	10528	12616
2323	10907	12706
2330	13525	12733
2331	15021	12878
2332	3763	12915
2333	15145	12921
2334	15146	12923
2335	8647	12927
2336	15132	12933
2337	1514	12942
2338	14098	13106
2339	13534	13111
2340	15215	13126
2341	15260	13620
2342	15173	13286
2345	7637	13728
2346	7666	13730
2352	15290	14382
2353	15296	14392

I, the undersigned Commissioner, do hereby certify that the aforesaid official transcript pages comprise a full, true and correct report of such proceedings, testimony and evidence heard and recorded therein before me.

Dated at Nurnberg, Germany, May 28, 1948.


 JOHNSON T. CRAWFORD
 Commissioner of Tribunal No. 6

AFTERNOON SESSION

(The Commission reconvened at 1400 hours, 11 May 1948.)

THE MARSHAL: The Commission is again in session.

DR. BOETTCHER (for Krauch): Mr. Commissioner, the defense for Dr. Krauch makes available Dr. Karl Rumscheidt for cross examination concerning Krauch Document No. 4 which bears the No. 40. May the witness be seated?

THE COMMISSIONER: We will swear the witness first.

DR. KARL RUMSCHEIDT, a witness, took the stand and testified as follows:

THE COMMISSIONER: The witness will stand and raise his right hand and repeat after me the following oath:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will omit and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: You may be seated.

DIRECT EXAMINATION

BY DR. BOETTCHER:

Q Dr. Rumscheidt, you executed an affidavit for the defense of Professor Krauch. It is dated the 10 November 1947 and bears the Krauch Document No. 4 and has been submitted as such to the Tribunal. It bears the Exhibit Number Krauch No. 40. You just reread the affidavit and I would like to ask you whether you wish to add anything or change anything in this affidavit?

A Except for the listing of two further names I have no

14425



alterations to make. These are names of a man whom we got out of prison in France, and names of German engineers who supported us in our work in France.

Q To which paragraph in the affidavit do you wish to make this addition?

A This concerns No. 5.

Q Please make your statements now.

A It has been stated that we released a French engineer from prison in Toulouse. The name of this engineer is engineer Richard from Comptoir Francais de L'Azote. The names of the engineers who supported us in our work belonged to Point No. 4. These are engineer Thiessen and engineer Bacuerle; Engineer Thiessen of the Deutsche Vacuum Oelgesellschaft in Hamburg, and Diplom Engineer Rouschle of Rhenania-Ossag in Hamburg.

Q You have no further additions or changes to make?

A No.

Q In that case I yield the witness to the prosecution.

CROSS EXAMINATION

BY MR. NEWMAN:

Q Mr. Witness, your affidavit refers to nitrogen plants in France, Belgium and Holland. This cross examination will be confined to the nitrogen plants in Holland during the war. Will you tell us first when you made your statement on nitrogen plants in Holland? What was the source of your information?

A The explanations about the Dutch nitrogen industry were given

in my affidavit. I supposed myself on my notes from the year 1942 and 1943. These are notes which were made during our daily work. They were set down every day or every month.

Q Do you know the main Dutch nitrogen plants and their development during the war from your own knowledge?

A During my activity I visited these plants repeatedly.

Q Now you said Professor Krauch succeeded in preventing the execution of the plan of German military authorities to dismantle idle nitrogen plants in other countries and in Holland. Do you know the most outstanding Dutch nitrogen plants by name?

A Yes. The largest ones are the State Mines--Staatsminen--in Limburg; the next one is the Hekog, near Amsterdam; and the third one is Sluiskil on the Terneuzen canal.

Q That name is spelled S-L-U-I-S-K-I-L. Now is it true that the Sluiskil plant was deprived of machinery, equipment and goods weighing more than 24 million pounds.

A I would like to answer as follows: At the beginning of the war the Sluiskil plant was inactivated because of artillery activity. This state still existed in 1941. On instructions by Professor Krauch, we undertook to reactivate this plant. Therefore it was necessary to obtain the necessary raw materials from the competent authorities of the Reich Commissar in the Netherlands, such as coal, electricity, and so forth.

Q Will you please try to just answer my question which reads: whether or not it is true that this Sluiskil plant was deprived of

11 May 48-A-13-15-4-Gaylord (Int. Juolich)
Court No. VI, Case No. VI - Commission

machinery, equipment, and goods weighing more than 24 million pounds.

A I do not know the weight. I can say nothing about that.
The fact is that in 1943 the plant was dismantled,

Q Now is it not true that these machines, equipment, and goods were primarily shipped to Farben plants all over Germany?

A The dismantled machines were delivered partly to a Belgian nitrogen plant, partly to a Dutch nitrogen plant, and partly to a number of plants in Germany which did not directly belong to I. G. Farben. As an example, let me name the nitrogen plant Hibernia; another example is the nitrogen plant Linz.

Q What do you mean by "not directly owned by I. G. Farben?"

A I mean such plants in which I. G. Farben did not have the majority share; either they had no influence on these firms at all, or they did not have the majority.

Q What about the Linz plant you just mentioned?

A The Linz plant was owned and built at the orders of the partners of the nitrogen syndicate. They founded it together.

Q Just tell me I. G. Farben's share in this plant, if you happen to know.

A Unfortunately, I cannot say that because I do not know that figure.

Q Now you will be shown a list prepared by Sluiskil after the liberation of Holland, dated December 10, 1945. The list is signed by the commercial manager of Sluiskil, Mr. Van Den Berg, V-A-N-D-E-N-B-E-R-G. Did you happen to know Mr. Van Den Berg?

A I know his name. I might have seen him some time; at any

rate, I did not have personal contact with him.

Q This list is entitled "List of Recipients Indicating the Net Rate per Carload or per Barge of Each Shipment." This list is attached to an affidavit; both the affidavit and the list attached thereto bear the NI NO. 14680 and will go in as Exhibit 2354 for identification only. Now the list purports to show the weight and kilogram of the machinery and equipment shipped to various Farben plants. Now taking up just a very few of the more important items, do you remember a shipment of more than two million four hundred thousand kilograms, that is about five million pounds of equipment of I. G. Farben, Heydobreck?

A I do not know the figures listed here because when shipping machines and apparatus from Sluiskil, the Gebechem had no influence on shipping machines and equipment.

Q Do you remember a shipment of machinery of 360,000 kilograms to I. G. Farben, Wolfen-Bitterfeld?

A I must give the same answer to this question too. I do not know these figures because we did not have any influence concerning these consignments.

Q Now coming to the part of the list entitled "American Zone." Do you remember a shipment of about three and one-half million pounds to Stickstoff-Werk Linz?

A I see the figure listed here, but I cannot state my opinion on this.

Q Do you know whether other Dutch nitrogen plants were subjected to the same treatment?

A What do you mean by "other nitrogen plants?"

Q Exactly what I said: other nitrogen plants in Holland.

A During the time of my activity in Holland, no other nitrogen plants were dismantled.

Q Do you know whether the Dutch plant Sluiskil, which we just discussed, had ever received any payment for such equipment, machinery and goods?

A This fact is not known to me. I merely know that the Belgian group of the nitrogen plant of Sluiskil refused to accept payment, and that the Italian group who owned the majority of the shares did not want any payment but they did request that the apparatus and the machines would be brought back to Sluiskil after the war and set up again.

Q And do you know whether this request was being complied with at the time?

A I cannot answer that question either because the settlement of these questions was not handled by the Hebechem but by the Reich Ministry of Economics or by the persons of the firm WIFO, which was commissioned by the Reich Minister of Economics to carry this out.

Q Now when saying in your affidavit that through the efforts of Professor Krauch, dismantling of Dutch plants was prevented, did you mention the Sluiskil plant in this connection? If so, please refer me to the spot where you say so.

A My testimony refers to our efforts in the year 1942 in order to keep the nitrogen plant in Sluiskil in operation. After we had succeeded in getting the plant ready for operation, one month later an air

attack took place which inactivated the plant. A second attack occurred one month later at the end of July 1942. In spite--

Q I just asked you if you mentioned the fact the Sluiskil was dismantled in your affidavit. If so, please refer me to the paragraph where you state it.

A No, I did not mention that fact.

Q Do you know how much nitrogen was shipped from the occupied western territory to Germany during the war?

A The figures in front of me say the following: from Belgium to Germany 16,600 tons of nitrogen were exported in the shape of liquid ammonia.

Q Do you mean to Holland or from Holland?

A I am speaking about the figures which were exported from Belgium. The first figure of 16,600 tons was exported to Germany; a second consignment amounting to about 2,000 tons was exported to France. France made foodstuffs available to Belgium in exchange. A third consignment was exported to Holland and was made into fertilizers by the Dutch nitrogen plants. The export of this nitrogen was necessary because in Belgium.....

Q Just a moment. I didn't ask you for that. You may elaborate on that if defense counsel cares to ask you about it. Now please tell me how much nitrogen was shipped from France or Holland to Germany during the war?

A In as far as I know, no nitrogen was exported from Holland to Germany; from Belgium, an amount of approximately 21,000 tons; and

11 May 48 ~~16~~ 16 May 48 (Int. Judicial)
Court No. VI, Case No. VI - Commission

from France, an amount of approximately 1,000 tons.

Q I have no further questions.

DR. BOETTCHER: Dr. Boettcher.

REDIRECT EXAMINATION

BY DR. BOETTCHER:

Q Dr. Rumschäidt, at whose suggestion and whose order did the dismantling of Sluiskil take place?

A Sluiskil was dismantled on instructions from the Reichs Ministry of Economics and was approved by the Reich Commissar for the Netherlands, who was competent for the final decision.

Q Did Gebechem exercise any influence in this dismantling measure?

A Gebechem had no possibility to order any dismantling measures.

Q Witness, you answered the prosecutor's question concerning the export of nitrogen from the western territories, and you stated that 16,000 tons were exported to Germany. Please give the reasons why this export to Germany took place.

A As part of the extension of the production of nitrogen in Belgium three plants, rather two plants were set up to start production and in a third plant the production of ammonia was increased considerably, yet no possibility existed to make fertilizer out of that ammonia in the country. Before the war the Belgian nitrogen industry had sufficient amounts of sulphuric acid in order to make fertilizer out of the ammonia. After the outbreak of the war, this ceased, so that the excess of ammonia had to be processed somewhere else. This was done in Germany, in France, and in Holland.

Q Did the Dutch economy get some exchange value for the

nitrogen which was thus made into fertilizer?

A I do not remember the settlement with Holland any longer. I mentioned before insofar as the French settlement is concerned, that France received a certain amount of food, and agricultural products were sent to France.

Q Witness, may I now put a letter to you which Dr. Oster, one of the defendants in this trial, wrote in July of 1942 to Dr. von Schnitzler, who is also a defendant. This letter was mentioned by the prosecution when cross-examining Dr. Buetofisch. They introduced it as Exhibit 2115. I give you this letter to read. Please tell me when you have studied the letter and then I shall question you concerning it. It concerns the export of nitrogen.

Dr. Rumscheidt, just a moment. I want to put the question first. This letter mentions that the intention was discussed that about 16,000 tons of "N" should be brought to Germany from the occupied western territory. According to the figures given to you, no such amount is mentioned, nothing even close to it, and I therefore ask you to comment on this letter.

A In the middle of the year 1942 a committee from Berlin appeared in Belgium. I don't know any more who sent them. They put forward the request that a large amount of nitrogen from Belgium production should be exported to Germany. The competent authorities of the military commander in Belgium and I strongly objected to this request. For me the consideration was decisive that taking away large amounts of nitrogen would paralyze the production to a great extent. The

competent authorities of the military commander in the department of food and agriculture, wanted that all the nitrogen produced in Belgium should be kept in the country. The requests made by Berlin were actually not fulfilled. The communication to Dr. Oster, in my opinion, is to be explained in the following manner. As chief of the Nitrogen Syndicate, he had to consider how the nitrogen to be imported from Belgium was to be distributed in Germany. Dr. Oster himself never could exercise any influence on the export from Belgium to Germany because this was a matter handled by the Reich authorities and not one handled by any private organization.

Q By "private organization", which you just mentioned, you mean the Nitrogen Syndicate, don't you?

A Yes.

Q You said that you no longer remember who was in this committee that came to Belgium in order to handle the export of nitrogen?

A No.

Q Let me ask you, was it connected with the office of the Gebechem?

A Please repeat the question--I didn't quite understand.

Q Had this commission been sent by the Gebechem?

A No, they had nothing to do with the Gebechem.

Q Had they been sent at the request of I. G. Farben?

A No, they had not been sent by Farben because Farben never took an interest in these matters.

Q One final question. The order was given as a result of the

inability to carry the planned dismantling of plants of the nitrogen industry in Belgium, Holland, and Northern France.

Q Who originally gave the order that the nitrogen production in these western countries should be started again and should be increased?

A I personally got this order from Professor Krauch. The procedure was such; instructions had been given by the then Reich Marshal which described the task very clearly, that all measures were to be taken which would help to retain and to increase the output of the nitrogen industry.

DR. BOETTCHER: No further questions.

DR. HARTMANN: Dr. Hartmann for Dr. Buestefisch.

BY DR. HARTMANN:

Q Witness, do you know whether the extension of the German nitrogen industry during the war, where the apparatus from Sluiskil were used, was carried out according to instructions by the authorities?

A Competent for the distribution of the machinery taken from Sluiskil, as I said before, were the Reich Ministry of Economics and the WIFO.

Q I asked whether the extension of the German nitrogen industry during the war was carried out by free decision of the owners, or by the instructions given by the authorities?

A The extension of the German nitrogen industry during the war is more or less the continuation of planning which had been started before the war, and the purpose of it was--let me give an example--in

Linz the production of fertilizer was to be increased.

Q Did the German firms have to take the machines from Sluiskil which were allocated to them, or could they have chosen to obtain new machines and to build them for themselves?

A No one could refuse to obey the decision of the German authorities who were competent, that is, the Reich Ministry of Economics in this case. On the other hand, naturally it was difficult for the plants to obtain and to build apparatus and machines at short notice.

Q Was this difficulty not also due to the general instructions given by the authorities?

A During the war there were a great number of plans which were more urgent than the extension of the nitrogen industry. Of course, because of such instructions for these plans the extension of the nitrogen industry was made rather difficult.

Q With whom did the German firms have to settle concerning the apparatus which they received from Sluiskil?

A The settlement--the final acceptance and any matters of agreements had to be settled with the WIFO.

Q Did the German firms exercise any influence on the fact whether Sluiskil got any compensation, and how much compensation they got?

A The German firms could exercise no influence on this. The German firms merely expressed that the prices to be paid were not excessive.

Q These considerations of the German firms, did they have to

effect what Sluiskil finally got in the end?

A No.

DR. HARTMANN: Thank you. No further questions.

COMMISSIONER: Further questions by the prosecution?

MR. NEWMANN: No questions.

COMMISSIONER: The witness may be excused. Is there another witness available soon?

DR. VON ROSPATT: I believe another witness is expected. The defense counsel who are concerned with this are busy in the main court at the moment, though.

COMMISSIONER: Very well. We will recess for about 20 minutes. The Commission will be in recess 20 minutes.

(A recess was taken.)

(The hearing reconvened at 1530 hours.)

LR. SEIDT: Before I shall ask the commissioner to swear in the next witness, I would like to make the following statement. After due consideration, we decided to withdraw five affidavits of witnesses which were called in by prosecution for cross examination. We will clarify our reasons for that in our closing brief and now I would like only to give you the exhibit number for the record. The first is an affidavit by Jacob Eliasowitz, Exhibit 90, Document Duerrfeld 786 in Document Volume V, page 46; Number 2, an affidavit by Wilhelm Fraenkel, Exhibit 111, Document 886, Book VI, page 53; the third is an affidavit of a certain Alfred Jachmann, Exhibit 119, Document 923, Book 7, page 1; the fourth is an affidavit by Udo Schwarz, Exhibit 182, Document 1110, Book VIII, page 1; and the fifth and last is an affidavit by Josef Gruenfeld, Document 902, Document Book Duerrfeld Volume VIII, page 127 -- I have to correct myself. It is Document Book VII, page 127. I shall give you the Exhibit Number of the last document a bit later. These are the affidavits which we are withdrawing and the cross-examination will thereby become unnecessary. If you please, Mr. Commissioner, will you please now swear in the witness, Reinhold?

COMMISSIONER: The witness will stand and hold up his right hand and repeat after me, "I swear by God, the Almighty and Omniscient, that I will speak the pure truth, will omit and add nothing."

(The witness repeated the oath.)

COMMISSIONER: You may be seated.

DR. SWIDL: Mr. Commissioner, defense has submitted two affidavits by this witness. These affidavits are contained in Volume II of Document Book Duerrfeld, the first is on page 5 of the document volume, and has a number 69. It was submitted as Duerrfeld Exhibit 23. The next document by this witness is an affidavit which is on page 13 of Document Volume II. This is Document 70, and the affidavit was submitted as Exhibit 24. We have no questions to this witness, and the witness thereby is available for cross-examination.

COMMISSIONER: The prosecution may examine him.

CROSS EXAMINATION

BY MR. HINSKOFF:

Q Mr. Witness, you were the manager of the supply and maintenance department of I.G. Auschwitz, were you not?

A Yes.

Q And that included the kitchens and camp food supply?

A Yes.

Q Now, who was your chief, Mr. Witness?

A Dr. Savelsberg.

Q And to whom was Savelsberg directly responsible?

A If I am not mistaken, to the plant management, Dr. Duerrfeld.

Q Now, Mr. Witness, in your affidavit, Duerrfeld Document 70 you state that the inmates were favorably influenced by the I.G. Farben feeding? Now, Mr. Witness, isn't it a fact that when you were at I.G. Auschwitz you received the impression that the inmates did not get the food they needed to do the heavy work required of them?

A It was like this, the food was allocated according to rations provided by instructions of the provincial food office plus the additional rations for heavy workers and this full ration was given to the inmates. Beyond that, I.G. tried to bring additional supplies of nourishing soups and larger amounts of potatoes than they were entitled to according to regulations to Camp No. 4.

Q Mr. Witness, you will save a lot of time and not clutter the record--you will try, if you can, to answer the questions I put to you. Now, the question is this, when you were at I.G. Auschwitz, did you, or did you not get the impression that the inmates did not get the food they needed to do the heavy work required of them?

A That depends entirely upon the work that the individual inmate was doing.

Q Please, Mr. witness, may I interrupt just a moment. Let me phrase the question just one more time for you. When you were at I.G. Auschwitz, did you or did you not get the impression that the inmates didn't get the food they needed to the heavy work required of them, Now, did you, or didn't you get that impression?

A Yes, I had that impression.

Q Thank you. Now, Mr. witness, you stated in your affidavit that you never heard of inmates dying of starvation. Now did you ever see inmates collapse at the construction site?

A At the beginning of 1942 when I came to Auschwitz I saw occasionally that inmates collapsed. That was when they were marching back to the camp Auschwitz.

Q In other words, they were coming from the I.G. Farben construction site, and going back to where they slept, and on the way back, you saw them collapse, is that right?

A Yes, I saw people who were being carried by other inmates.

Q Now why do you think they collapsed? You saw them being carried past.

A I really have no judgement in that respect. I didn't see inmates at work.

Q Now, Mr. witness, you were one of the top men in charge of feeding these people. When you saw men being carried and men collapsing after work, didn't you inquire as to why they collapsed?

A At the time when I saw them in the state of collapse occasionally the inmates were not fed by us at that time, but that was still the

time when they were fed at the concentration camp Auschwitz.

Q And you didn't care why they collapsed at the I.G. Farben site, is that your testimony?

A Well, I really cannot say that.

Q Now, isn't it a fact when you saw these inmates coming back from work, you often saw as many as three or four inmates being carried from one detachment? isn't that so?

A Yes.

Q Now, Mr. Witness, isn't it a fact that at the end of 1942, Obergruppenfuehrer Pohl of the SS agreed to transfer the full responsibility of feeding the concentration camp inmates to I.G. Farben?

A Yes, with the stipulation that the various fields of competence of the food supply should be negotiated with the various agencies in Auschwitz.

Q Now, Mr. Witness, isn't it true that I.G. Farben's kitchens Inspector Wurziger had access to the kitchens in Monowitz?

A Yes.

Q And isn't it true that you yourself were there about ten or fifteen times?

A I myself?

A Yes.

A Yes, that's right.

Q Now, Mr. witness, a little while ago, we held an examination of Mr. Savelsberg, and we spoke about the menus of food given to the various types of workers.

14444

But you couldn't tell from looking at the menus what qualitative difference there was between them. You could only tell the difference in quantity. Now, Mr. Witness, will you tell this court about the quantity of the meat which was given to the inmates?

A There was only a difference in the quality of the meat. We were obliged to purchase the meat from the concentration camp in Auschwitz and that was based on instructions from the Viehwirtschafts, livestock Association in Upper Silesia.

Q Yes. Mr. Witness, I just want to get all the facts on the record. Now, isn't it true that with respect to the food given to the inmates they received mostly horse meat and Class D meat?

A Yes, that's right. That is D meat, not food as such.

Q I said meat. The meat they got was either horse meat or was called Class D meat, that's correct, is it not?

A Yes.

Q Now Mr. Witness, isn't it true that Class D meat was often rancid meat and often even diseased?

A No, D meat is only a classification of meat which refers to the type of meat. Cattle that is very fat is, of course, Class A, and cattle that is not as fat would be Class D.

Q Now Mr. Witness, isn't it a fact that this Class D meat was often uninspected meat?

A We, of course, had no way of seeing that. I do not believe that however, because this meat was mostly supplied from the slaughter house in Kattowitz. They were not sausages, but actual meat. There the

meat was examined.

Q Now Mr. Witness, will you tell the Court what Bankfleisch is?

A You mean Freibankfleisch?

Q Freibankfleisch.

Q Freibankfleisch is meat which comes from cattle, so-called "accident cattle" which cannot be used for the civilian population, and is sold at this so-called Freibankfleisch.

Q Well, why can't they be used for the civilian population?

A Because of the accidents the intestines usually are broken and the meat does not look as well.

Q How does it smell after the intestines have been broken?

A You mean the meat? That cannot be noticed at all.

Q Now, isn't it a fact that because of what happened to the meat, that it is often classified as diseased and sick meat?

A In former times, Freibankfleisch was not sold on the free market generally, but for cheaper prices to the civilian population, before the war. It is certainly edible, but it is much cheaper because it does not look as well.

Q Mr. witness, will you describe the main meal that the inmates received at 4:00 O'clock in the afternoon?

A Usually they were mono-plates, one course meals. Vegetable mono-courses, beans or peas. Well, as I said, usually whatever there was from the food allocations and that could be cooked as a mono-course. Sometimes noodle monocourse, mostly potatoes and cereals and vegetables.

Q Mostly liquid, isn't that true?

A Yes, usually.

Q With some peas, sauerkraut and beans put in?

A Yes, but sauerkraut could only be given in solid form and not as a soup.

Q Now, Mr. Witness, there has been a good bit of talk about the Buna soup which the inmates received. Now isn't it a fact that you yourself have admitted, that this Buna soup was not as good as the Building soup which came from other camp kitchens?

A I believe there must be an error. What are you talking about, bean soup, or Buna soup?

Q Buna soup.

A The Buna soup that was given to the workers was prepared with extra ration, granted by the Food Office. It contained of potatoes ...

Q Please, Mr. Witness, you are answering that I didn't ask. I asked didn't you previously admit that the Buna soup that the concentration camp inmates got from Farben was not as good as the building soup which came from other camps? That's the only question before you.

A Yes.

Q That's true, is it not?

A Yes.

Q Now, is it also true, Mr. Witness, that the concentration camp inmates who worked for Farben drank this Buna soup on the I.G. Farben construction site from rusty containers which they had to pass on from inmate to inmate?

A That of course is to be understood this way.

Inmates, after they marched to the construction site, didn't always have their mess kits with them. Either they didn't take them along or they forgot them, and sometimes they borrowed the kits from one another and sometimes they got them from the sink cans and sometimes rusty tin tins, that's quite possible.

Q Now, Mr. Witness, isn't it a fact that one of the difficulties in providing enough food for the inmates was caused by the fact that the number of inmates increased so rapidly that I.C. Farben never caught up with the construction of necessary kitchens?

A It was like this. If the allotment of inmates took place, it was usually like this that temporary emergency kitchens had to be constructed, and from those were first supplied until later on, the permanent kitchens were constructed. But these were only emergency kitchens.

Q Yes, now Mr. Witness, I want to get the record clear. The question was directed to a simple point, and that is, isn't it a fact that one of the basic reasons for the difficulties you had in feeding your personnel was that your new personnel, your new employees, your new workers were increased so rapidly that you never had enough kitchens to take care of them? Isn't that one of the reasons for your difficulties?

A No, the conditions were like this, and I am speaking of permanent kitchens. If additional allocations of 2,000 men were brought in, and they could not yet be fed from a permanent kitchen, first of all they had to be fed through a temporary kitchen, but later on, a permanent

kitchen was built and the temporary kitchen was only an emergency measure. But that doesn't mean that the rations they were entitled to were not given to them.

Q Now the point that we were getting to is, is it true that because you had to use smaller kitchens which were made originally to serve small groups of persons that therefore, the meals, for what they were worth, were less palatable, and less inviting and always consisted of one course?

A Whenever it happened it was always an emergency or a temporary measure.

Q Now, Mr. Witness, concerning the food of the concentration camp inmates, do you recall the occasion when your feeding installations broke down during a cold spell, and the inmates all received cold rations? Do you recall that occasion?

A Yes.

Q Now Mr. Witness, were the inmates able to stand just to receive cold rations as well as the other workers were? From your own observations.

A Well, I would have to explain the incident. The incident did not take place only in Camp IV, but about 8 kitchens. The stoves froze up and therefore the various kitchens were not able to cook and cold meals were given.

Q You just didn't understand my question. I wasn't trying to fix any blame for the kitchen breaking down. I merely asked you when it occurred, and the inmates received cold rations. From your observations,

were they able to stand such cold rations as well as the other workers?

A Yes, surely.

Q Do you recall, Mr. Witness, stating that the prisoners, the inmates, generally looked undernourished and were hit worse by this cold ration than the normally fed people?

A Yes, that is a matter of course.

MR. MINSKOFF: Thank you, no further questions.

REDIRECT EXAMINATION

BY DR. SLIDL:

Q Witness, you were just asked whether the inmates were undernourished and whether that was the reason why they were badly hit by the cold meal. I want to ask you a general question, were the amounts of food given to the workers still about the same?

A In general it was probably like this. The food on the whole construction site was rather unified, and the amount of food that was given to the inmates was, of course, not as high as that of the Polish and Eastern workers, or the Frenchmen, for these rations were lower, but for this reason, and this is my only reason for saying that an inmate who was living on this ration was usually hardest hit by the cold meals. Of course, that didn't last very long, only for 2 days, but that is why I said he was hardest hit. I am sure that I asked no longer than one or two days.

Q Was the physical condition of the inmates the same or were there differences between them.

A Until the end of 1943 we were not competent or responsible for the food, but after we were responsible for feeding them, I first of all

was no longer able to see that inmates collapsed, which is a sign for the fact that their food was considerably better.

Q Excuse me if I interrupt you, Mr. witness. You say at the end of 1943, when you took over the feeding, wasn't that at the beginning of 1943?

A Yes, I beg your pardon, at the beginning of 1943. I confused that with 1942. I mean the end of 1942 or the beginning of 1943 was when we took over the responsibility for the feeding, I saw no more cases of exhaustion and collapsed after that.

Q If you compared the physical condition and the condition of nourishment of the inmates in the various years, what would be the result of this investigation if you compared, for instance, 1941 and 1942 with 1945?

A It is obvious that the inmates were better nourished and made a better impression after the feeding of the inmates had been taken over by Farben and had been increased.

Q Then, you were also asked by the prosecution about the so-called Freibankfleisch. I would like to ask you a very general question. Does not the German civilian population and that already for a long time, also buy and use Freibankfleisch at all times?

A Yes, at all times. It is only cheaper because it does not look as well as the other meat.

Q Is it the nutritional value of the meat in any way different from meat of good quality?

A No. Freibankfleisch varies of course it depends on its type. It

If Class A cattle has an accident, the meat is better than the meat of Class D, accident cattle it just does not look as well, but the nourishing value is the same.

Q You further testified that the inmates received so-called Class D meat. Was that based on an order by the plant management of Farben, or who gave that order?

A This decision was made only by the cattle association in Kattowitz.

Q The cattle association is an authority?

A Yes.

Q Do you remember for certain that taking over the feeding of these inmates by Farben at the beginning of 1943 was a result of a conference with Obergruppenfuhrer Pohl or is it perhaps possible that the competent negotiations was another official of the SS?

A I can only remember a letter which was signed by Obergruppenfuhrer Pohl and in which he gives his permission that Farben was to take over the feeding.

Q Witness, you said that the inmates had the lowest food rations. I just want to ask you, are you quite sure about that?

A Oh, I beg your pardon. The inmate rations were between those of the free foreign workers', Frenchmen, and Poles, which were not from the General Government region, and that of the Eastern workers.

Q. May I then presume that you say that the Poles had even lower food rations than the inmates, or how do you mean that?

A. We distinguished between two types of food rations in the rations given to Poles. Poles that lived outside of the border area received their normal food rations just as the German and the heavy laborer, the Frenchman and the Italian received them; but Poles who were from the border area around Monowitz, that is to say, the border area of the Government-General, were on the same level as the Ukrainians, that is to say, they had considerably lower food rations.

Q. And the inmates, where were they?

A. The food rations of the inmates were between those of the Ukrainians and eastern workers from the border area and those of the free Poles and Frenchmen, etc.

Q. These different classifications or groups, were they fixed by the plant management of Farben, or can you tell me what other authority decided them?

A. The provincial food office in Kattowitz did that and fixed the food rations for every group.

MR. MEISHOFF: The prosecution has no objection, but this line of questioning far exceeds any of the scope of the cross examination, and I think it's burdening the record. He is going back to his direct testimony all over again.

DR. SEIDL: Mr. Commissioner, I only have a very few questions and I will be finished then.

THE COMMISSIONER: Very well.

BY DR. SEIDL:

Q. Witness, you further testified that in 1941 or at the beginning of 1942 you had seen how inmates who were marching back from the plant to the concentration camp Auschwitz had collapsed.

MR. MINSKOFF: Excuse me. May I interrupt just a moment? I have to go over to the other court. Mr. von Halle will carry on for me.

BY DR. SEIDL:

Q. Mr. Witness, I would like to repeat my question. You testified that in 1941 or at the beginning of 1942 you remarked how inmates had to be carried when marching back from the plant to the concentration camp Auschwitz. I want to ask you, did you see similar occurrences also in 1943 and 1944?

A. No.

Q. Do you know anything about the reasons that might have been the reason for this collapse of the inmates and whether especially the reason could not have been a simple accident at the plant or the inmates falling sick?

MR. VON HALLE: I think that is a leading question put to the witness. If he wants to find out from the witness what the witness knows, he should ask him directly.

THE COMMISSIONER: The objection will be noted in the record.

BY DR. SEIDL:

Q. I shall rephrase my question then. Witness, do you know anything about the reasons for those collapses that happened at the beginning?

A. I assume that it might have been due to the very bad food situation

in the camp. That would be the only comment I'd have to make on that.

Q. I have a last question to you. In the Auschwitz Farben plant you were the competent expert for feeding and supplying the laborers?

A. Yes.

Q. In the course of your activity with I.G. Auschwitz, did you gain the impression that the plant management did everything that was possible in order to safeguard an adequate supply of food for laborers and inmates, or that they failed to do something to that effect?

A. No, I don't think they failed to do anything. Everything was done in order to safeguard the food situation and to improve it.

Q. No further questions, Mr. Commissioner.

MR. VON HALL: The prosecution has no further questions.

THE COMMISSIONER: The Commission will be in recess until nine-thirty in the morning. The witness is excused.

(The witness is excused.)

(The Commission adjourned until 12 May 1948, at 0930 hours.)

CERTIFICATE OF COMMISSIONER

I, JAMES G. MULROY, AGO #3-397399, hereby certify that I am a duly appointed, qualified and acting Commissioner, to take the testimony of witnesses under Order of Tribunal No. 6, in the case of United States of America vs Krauch et al; that pursuant to said Order, upon the dates hereinafter listed, I have supervised the taking of testimony of witnesses examined before me, and said testimony has heretofore been properly recorded, reported and filed in the Office of the Secretary General and now constitutes a part of the official transcript of proceedings in the above case; and the dates of such examinations, names of witnesses and pages of said official transcript are as follows:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
6 May, 1948	Ernst Hackemann	13739-13751
6 May, 1948	Gerhard Dietrich	13752-13771
6 May, 1948	Guenther Schiller	13772-13783
6 May, 1948	Herbert Ullitzka	13784-13797
7 May, 1948	Gustav Harr	13894-13924
7 & 8 May, 1948	Rudolf Doemming	13925-13963
8 May, 1948	Max Faust	13965-14041
→ 12 May, 1948	Karl Bayer	14458-14490
12 May, 1948	Fritz Schermuly	14492-14507

I further certify that the aforesaid transcript pages comprise a full, true and correct report of said proceedings, testimony and evidence heard and recorded at proceedings before said Commissioner.

Dated at Nurnberg, Germany, May 24, 1948

James G. Mulroy

Commissioner of Tribunal No. 6

Received
1 Original, signed
1 Memo, signed
43 Enc. Copies

Official Transcript of hearing before a
Commissioner for Military Tribunal VI,
Case VI, in the matter of the United States
of America Against Karl Krauch, et al,
defendants, sitting at Nurnberg, Germany,
on 12 May 1948, Commissioner James G.
Mulroy, presiding.

THE MARSHAL: The Commission for Tribunal VI is now in session.

COMMISSIONER: Mr. Marshal, will you please report as to the defendants present?

THE MARSHAL: If it please Your Honor, the defendant Duerrfeld, is present in the courtroom.

COMMISSIONER: For the purpose of the record, it will be shown that this hearing is called in accordance with an order of Tribunal Number VI and based upon the record of that Tribunal yesterday. Is Dr. Mueller in court?

DR. SEIDL: Dr. Mueller is not present, Mr. Commissioner.

COMMISSIONER: Can you state, Counsel, whether or not all of the defendants who are interested in this hearing with their counsel are now present?

DR. SEIDL: Mr. Commissioner, I can't give you a reliable reply to that answer -- to that question. This would be Dr. Mueller's task. He has to inform all the defendants and counsel in question.

COMMISSIONER: You can only answer for the particular defendant whom you represent?

DR. SEIDL: I can only speak on behalf of my client, Dr. Duerrfeld. Mr. Commissioner, I am just seeing Dr. Mueller and I am sure that he can reply to the question which you just put.

14456



COMMISSIONER: Dr. Mueller, will you please make a report as to the notices given to the various defendants and their counsel with reference to this hearing?

DR. MUELLER: Mr. Commissioner, I regret that as a result of the various changes made during the last few days no notice has been given to the defense as a whole about the hearing today. I don't know, therefore, whether all defense counsel are informed about the pending cross examination.

MR. MINSKOFF: Mr. Commissioner, the record should show that when the Tribunal ordered this commission to take place today it was expressly stated that several witnesses who had been Duerrfeld affiants would be called for cross-examination today, and that was in open court in the presence of all defendants.

COMMISSIONER: Very well, Mr. Minskoff. Dr. Seidl, you may bring on the first witness to be heard this morning.

DR. SEIDL: Dr. Seidl, counsel for Dr. Duerrfeld. Mr. Commissioner, the affidavit of the next witness who is available for cross examination is contained in book XIV of the defendant, Duerrfeld. The affidavit is on page 113 of that document book. It is an affidavit of Karl Bayer of 24 December 1947. The number of that document is 1218. The affidavit was offered as Exhibit Duerrfeld Number 153. With the permission of the Commissioner, I should like to call this affiant into the witness stand.

COMMISSIONER: Mr. Marshal, will you bring in that witness? I assume that he is German. Is this witness German?

DR. SEIDL: The witness is a German.

COMMISSIONER: Witness, raise your right hand, say "I". Repeat this oath after me, "I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

COMMISSIONER: The witness may be seated. You may question the witness, Dr. Seidl.

DIRECT EXAMINATION

BY DR. SEIDL:

Q Witness, for the record, would you please again state your full name as well as the date of your birth?

A Karl Bayer, 15 January 1902.

Q On the 24th of December 1947 you gave an affidavit to the defense which extends to 21 paragraphs and comments on the work conditions at Auschwitz. Did you make that statement voluntarily?

A Yes.

Q Is there anything you have to add to this affidavit, or are there any corrections you want to make?

A Not as far as I know.

DR. SEIDL: I have no further questions to the witness, and he is available for cross examination.

COMMISSIONER: You may inquire, Mr. Minskoff.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q Mr. Witness, in your affidavit, Duerrfeld Document Number 1218, Exhibit Duerrfeld 153, you state in Paragraph 4 that the works management

of I. G. Farben always tried to assign the inmates to details which were in line with their physical strength. You say it is out of the question to assert that no heavy labor could have been demanded of the prisoners on account of their state of health. Now, Mr. Witness, isn't it a fact that you yourself observed that when the inmates came to work early in the morning they looked tired even when they arrived?

A Well, I must confirm that today, but that was not due to the work done the day before, but it was due to the fact that the SS authorities in the camp had these inmates get up at 5 in the morning for roll call. They only started to work after dawn, that is, not before 7 or 7:30. For that reason these inmates looked tired when they entered the plant.

Q Now, Mr. Witness, when these workers arrived, and they were tired, as you say, regardless of the reason for which they were tired, did you yourself observe these tired inmates carrying hundred-pound cement sacks for I. G. Farben on the plant site?

A Yes, I observed that myself.

Q And that was in spite of the fact that they were already tired when they arrived?

A Well, it was not easy to recognize the physical condition of the inmates. Some of them looked very strong. The carrying of cement sacks was done in a speed as it is customary with all workers. Naturally, I quite admit that it was somewhat more difficult for the inmates because as the result of their under-nourished condition, which was easy to recognize in the case of many, they were not strong enough to come with that work in the same way as normal workers would be.

Q Nevertheless, that was the type of work they had to do, isn't that a fact?

A I didn't quite understand you.

Q I said, but nevertheless, even though they were weak and undernourished and tired, they had to carry these hundred-pound cement sacks because that was the job that was assigned to them?

A That is a fact, but the speed of work demanded from them took into consideration their physical state of health. The foremen who were in charge of these workers were quite humane in many respects. They had various intervals during their work.

Q Did they ever take part of the cement out and let them be 50-pound sacks, or did they have to carry the full 100-pound sacks, regardless of their condition?

A Actually, I had very little to do with these matters. I, as well as many other employees of Farben had a certain psychological interest in these people, but I only observed these matters passingly, as it were.

Q Even so, Mr. Witness, isn't it true that you yourself have seen these inmates fall down while carrying these heavy cement sacks, lose their footing and fall to the ground — you observed that personally?

A I can't remember having said that inmates fell down while carrying cement sacks. Naturally, as a result of the construction work at the camp many fell down when they were carrying various tubes, etc., because of the obstacles which were in the way. Inmates often stumbled and fell down, but that happened to others, too. It perhaps occurred more often in the case of inmates because they were not physically strong.

Q Now, Mr. Witness, do you recall stating to a member of the prosecution that you personally observed members of the inmates carrying cement sacks falling to the ground after losing their footing?

A It may be that I did say so, but I can't remember it at the moment. I can't remember that it happened particularly when they were carrying cement sacks.

Q Thank you. Now, Mr. Witness, in paragraph 7 of your affidavit, that is, Duerrfeld 153, you speak of "inmates' output", and you say, "I am compelled to say concerning inmates' output that some of them considerably lagged behind other categories of workers, and that the works management accepted the small performance and took it into account in assigning its labor schedule." Now, Mr. Witness, do you recall stating to the prosecution that one could not say that the use of inmates at the I.G. construction site was human, that everyone in I. G. Auschwitz had to know this, and that only 50 to 60 percent of the inmates working could come close to the work performance expected to them?

DR. SEIDL: I object to that question. I think that the witness is to be shown the record of the interrogation. What was read into the record now was merely something which was put to the witness by the prosecution but wasn't exactly the reply given by the witness before.

MR. MINSKOFF: The record will show that the prosecution put a question to the witness asking him whether he recalled making a certain statement to the prosecution and it seems to us that the witness should have a chance to say whether or not he recalls that. That ends the matter. If he doesn't, we might put that affidavit into evidence to impeach him. May I repeat the question?

THE COMMISSIONER: You may answer. The witness may answer.

BY MR. MINSKOFF:

Q. Now, Mr. Witness, did you or did you not state to the prosecution on the 26 of December 1947 in Nurnberg that one could not say that the use of inmates at the I.G. Farben construction site was humane; "everything in Auschwitz had to know this that only 50 to 60 percent of the inmates working could come close to the work performance expected of them."

A. At that time I corrected this figure of 50 to 60 per cent to 60 to 70 per cent. I think that the court reporter made a mistake when he took down the interrogation. It wasn't 50 to 60 but 60 to 70, as far as I remember.

Q. You wish to state now for the record that that estimate should be that only 60 to 70 per cent of the inmates could come close to the work performance expected of them?

A. That is what I said at the time. The interpretation of that matter to the effect that the employment of inmates by Farben at Auschwitz was not humane, that is another matter, because the entire works management was of the view that this employment of inmates could not be

considered as being humane. Every one of the works management down to the smallest employee was suffering from a mental pressure about having to employ these in the plant at all. That is what I meant at the time. That is what I meant when I said that the employment of the inmates was not humane.

Q. All right, Mr. Witness. Just to refresh your recollection, may I show you the affidavit NL-11642, Paragraph 5, where the original affidavit stated 40 to 50 per cent, and then in your handwriting it is changed to 50 to 60 per cent. I ask you, Mr. Witness, does that refresh your recollection that you in your own handwriting said that 50 to 60 per cent?

A. Yes.

THE COMMISSIONER: Has this document been admitted in evidence?

MR. MINSKOFF: It is now being identified for the first time, Mr. Commissioner.

THE COMMISSIONER: You will give it a number.

MR. MINSKOFF: I am not sure offhand what the next prosecution exhibit number should be. I can search for the number, and I think it's -- I'd rather be certain first. During the recess I can fill in the number for the record.

THE COMMISSIONER: I have a certain feeling about the number for these exhibits offered at this time. I know from the transcript that there seem to be some gaps in the numbers which were filled in subsequent days. It is sometimes rather difficult to get those records straightened out, and so far as possible I should like to get the numbers immediately when

the witness testifies or immediately thereafter before the end of the hearing. We could send a messenger to get it.

MR. MINSKOFF: Yes; we are doing that right now, Mr. Commissioner.

THE COMMISSIONER: Very well.

DR. SEIDL: First, I should like to ask the prosecution whether Document 14464 is being introduced as evidence or whether it is only to be assigned a number for identification?

MR. MINSKOFF: That depends entirely upon the answers the witness gives to the balance of the questions. If he admits the truth of the various statements he has made, there is no point offering the affidavit. If at any point he makes statements which is contradictory to the affidavit, we will offer the affidavit in evidence to impeach his testimony.

THE COMMISSIONER: Does that answer your question, Dr. Seidl?

DR. SEIDL: In that case I should like to reserve the right to object to the admissibility of this document because this actually is a rebuttal document, and since the taking of evidence was concluded by the Tribunal yesterday — the Tribunal recessed yesterday until 1 June 1948 — and I personally have misgivings as to whether it is at all possible in the present stage of proceedings to introduce now evidence into this trial. This, after all, is evidence to which the defendant Duerrfeld can no longer comment. I think that a principle might be violated in that connection which is valid for every proceeding, according to which the defendant must always have the possibility of being heard on every matter which is brought up against him. Since, however, the presentation of evidence was already concluded before the Tribunal, there is no longer a

possibility for the defendant Dr. Duerrfeld to comment upon that document. I don't know what this affidavit contains, not having read it, but I should at this time already point your attention to these misgivings!

THE COMMISSIONER: Dr. Seidl, you will of course make an objection. You are not making an objection at this time, but you are merely reserving your right to make that objection, is that correct, so that in case you do decide to make an objection you will signify it at the time. This will not go into the record then as an objection to be passed on by the Tribunal later unless you say so later, is that correct? All right. Let's go ahead then.

BY MR. MINSKOFF:

Q. Now, Mr. Witness, you have seen the document which is NL-11642 and I ask you, Mr. Witness, does that refresh your recollection that you stated 50 to 60 per cent of the inmates could come close to the work performance expected of them?

A. Yes. — I beg your pardon, I can see it now.

Q. Now, Mr. Witness, from your own figures then, is it not true that between 40 to 50 per cent of the inmates couldn't come close to the work performance expected of them? Did you understand that question?

A. Not quite.

Q. Your testimony now is that only 50 to 60 per cent of the inmates working for I.G. Farben at Auschwitz could even come close to the work performance expected of them. Now, I ask you, is it your testimony that the 40 to 50 per cent couldn't even come close?

DR. SEIDL: I don't want to object to that question, but I merely ask

the prosecution to tell me to what paragraph they are referring. Up to now, I haven't found that paragraph in the witness' affidavit.

MR. MINSKOFF: Mr. Commissioner, the witness has indicated he has read the paragraph. It refreshed his memory, and he agreed that it was correct.

THE COMMISSIONER: I think as a matter of courtesy you may tell him.

MR. MINSKOFF: All right. We have already shown it to him.

THE COMMISSIONER: All right. Let's go ahead.

BY MR. MINSKOFF:

Q. Now do you understand the question?

A. Yes. That is quite logical. If 50 to 60 per cent could just about do that heavy work, the rest of them had to be given light work. That was taken into consideration by the works management, or at least they tried to take that into consideration. Within that plant with all its peculiarities, there were always a lot of little tasks to be done.

Q. Now, Mr. Witness, we haven't spoken one word about heavy work or light work in connection with this 50 to 60 per cent. All we said, and it was your testimony, was that those persons couldn't perform the work expected of them, light or heavy, and the question to you was: is it not fact then that at least 40 to 50 per cent couldn't do the work expected of them?

A. Those 40 to 50 per cent naturally drowned among the crowd as it were. They were somehow pushed along by their other comrades, and that is how they did not become very conspicuous.

Q. Well, even their comrades, Mr. Witness -- the 50 to 60 percent-- they couldn't quite make the work expected of them, could they? They almost could do that?

A. That their output was far less than that of a normal free worker was well known to the works management from the very first day. All their statistical matter was, as far as I know, given to the planning department in order to explain why the construction of the plant was so slow and why the deadlines were not being kept, and that was taken into consideration. It was explained that the output of the inmates to a high percentage was far lower than that of all the other workers.

Q. Now, Mr. Witness, I don't want to go into this point of how much or how little they produced. We are trying to arrive at the evidence as to how much more they were required to produce than they could produce. Now let me put this question to you: isn't it a fact that if the performance of an inmate was not satisfactory to I.G. Farben construction management, he would be reported to the SS for punishment?

A. Naturally, I heard that that was the case, but I knew that it was only so if the output was so small that it was virtually below 20 per cent, to name a figure.

Q. But when the work got so low that the Farben management was not satisfied, they then reported that inmate to the SS for punishment. That is clear, is it not?

A. I don't know whether these inmates were reported for punishment, but I do know that some report was made.

Q. Well, Mr. Witness, didn't you tell a member of the prosecution

that the I.G. complained to the SS when they weren't satisfied with an inmate and the purpose of this complaint was the punishment of the particular inmate?

A. Yes, the punishment of that particular inmate was the consequence, but that I only heard that from the inmates themselves. Whether they were punished because of the low output of work, I can't say. I only heard that once; that an inmate said that he was punished because of his small output of work.

Q. Now, Mr. Witness, will you tell the Court what kind of punishment the SS gave these inmates after they were complained against by I.G. Farben management?

A. Naturally I never entered the concentration camp of Monowitz, although I would have liked to see what it was like. The inmates themselves, at least a few of them — there was a couple who told me that they were beaten at Monowitz as a punishment. This inmate was a criminal inmate and I didn't believe his statements at the time, and today I still have no proof that he was punished as a result of that report. Beatings, as far as I know, were used as punishment whenever any criminal deeds were to be punished, within the camp that is.

Q.- Do you remember an inmate named Hirschfeld?

A.- Yes.

Q.- Was he a criminal inmate?

A.- No, he was a Jewish inmate.

Q.- Now, did he tell you what happened to inmates in Monowitz when they were punished?

A.- This inmate Hirschfeld was a chemist in my laboratory. I repeatedly asked him about the incidents in the camp because I wanted to know whether I could get some confirmation of the brutal deeds of the SS. He said that there was a so-called "Stehbunker" there — that is a bunker where people have to stand up all the time. Then he said there was some mode of punishment for intellectuals by letting them dig up sand all Sunday long just from one side of the camp to another. Of course, these punishments were not initiated by the works management by reports about the work, but these were merely measures by the SS who wanted to punish the inmates for little violations, etc.

Q.- Mr. Witness, was it your opinion at the time that the SS gave more severe punishments for little violations than they gave when the particular inmate was reported as not working hard enough or as loafing on the job?

A.- I can't say that.

Q.- Now, Mr. witness, in addition to any punishment the SS may have given to inmates, did you ever hear of Farben men themselves beating inmates — foremen, masters?

A.- Yes, I saw it twice.

Q.- Now, Mr. witness, isn't it a fact that the capos often beat the inmates on the construction site to make them work harder?

A.- I saw that once. I immediately reproached that capo and I asked him why he was beating these inmates. He then couldn't tell me that he was acting upon the order of a master. He was one of those many sadists who were especially found among capo circles.

Q.- Now, Mr. witness, listen pretty carefully to this question. Isn't it a fact that one of the main reasons that the capos beat the inmates on the I.G. Farben construction site was that if the inmates did not produce enough the Farben master or foreman would complain to the SS and that would result in the capo himself being beaten when returned to Monowitz?

A.- I heard that. The main reasons why the capos were beating or worrying inmates was due to the desire by the capos to obtain preferential treatment from the SS. In my opinion, there was no necessity for that. Ninety-nine per cent of the decent Farben employees certainly rejected those sort of measures.

Q.- Do you recall telling the prosecution under oath that the capos would be beaten by the SS at Monowitz upon the complaint of the I.G. Farben master that the inmates under him were not working hard enough? Do you recall making that statement?

A.- Naturally among the inmates there were a number of persons who were particularly stubborn in refusing to work, and in those cases I heard that a report was made. Dr. Dueffeld, in particular, at the time when

90 per cent of the German people thought that we would be victorious and when the German army was before Stalingrad, issued the order that the inmates and all foreign workers were to be well treated. The SS, however, continued their brutal methods at the time when the German catastrophe was to be recognized. That was the essential difference. The reports for the punishment of inmates — well, I can't say today whether they were actually reported; perhaps it may be assumed; but the reports were only made in such cases where one could actually recognize that these inmates were absolutely stubborn in their refusal to work according to the view of their German superiors.

Q.- Thank you. There are no further questions by the Prosecution. Now, Mr. Commission, I would like to say that NI-11642 I am informed would be Prosecution Exhibit 2266.

THE COMMISSIONER: What is that number?

MR. MINSKOFF: 2266 for identification.

THE COMMISSIONER: Will you let me have the document?

MR. MINSKOFF: Yes, we have it here. Please pass it to the Commissioner.

REDIRECT EXAMINATION

BY DR. SEIDL:

Q.- Witness, you testified that the inmates were already tired when they came into the plant. How far was Camp IV where the inmates were housed from the plant itself? Did the inmates have to march a long way?

A.- Well, I don't know exactly how many kilometers there were, but I think there were about two or three kilometers; perhaps even less. I wasn't

exactly interested in that distance at the time.

Q.- Do you know where Camp IV was located?

A.- Yes. I am not very sure about that.

Q.- Were you ever in Camp IV yourself?

A.- No.

Q.- And you don't know where Camp IV was located?

A.- Geographically, I can't tell you at the moment. I only know that I passed it once or twice and I looked at what was going on.

Q.- When did you actually enter the Auschwitz plant of Farben?

A.- On the first of June 1943.

Q.- When you saw these inmates carrying cement bags, did these inmates have to run while they were carrying these cement bags?

A.- No, not at all; it was a proper speed.

Q.- At what distances did they have to carry these cement bags? Ten meters? One hundred meters?

A.- I think between 10 and 50 meters.

Q.- Did it ever occur that two inmates carried a sack together?

A.- I only observed these things in passing, but I observed sometimes that they helped each other.

Q.- Did you ever notice that the inmates when carrying cement bags were driven and were hurried by any master?

A.- No, not at all.

Q.- You said that you only passingly observed them carrying cement bags. Because you only observed that in passing, I want to ask you whether

this was conspicuous to you or whether the cement bags were carried by the inmates in the same way as by all other workers.

A.- Well, the inmates made themselves some headcovers in order to protect their necks against the dust, as it is customary amongst all other workers. They carried the bag on their backs. That is how it is always done, and it can't actually be done any other way. They carried these bags but there were hardly any steps as obstacles; sometimes they had to walk across boards, but these distances were only short and couldn't be avoided.

Q.- Do you know that the works management of Farben at Auschwitz constructed two large concrete factories?

A.- Yes, I heard of that.

MR. MINSKOFF: The question should seek information rather than suggest the information you want to receive.

BY DR. SEIDL:

Q.- I shall put another question. Do you know whether the works management constructed large concrete factories in order to reduce the transporting of the cement to the smallest possible degree?

A.- Day and night they worked at the technical construction of that plant. I never doubted that that plant was being planned and was under construction.

Q.- When fixing the speed of the inmates' work did the Works Management assume that they were to produce the same output as all other free and foreign workers or was a different standard applied?

A.- The physical condition of the inmates was taken into consideration in every respect as far as it was at all possible.

Q.- Counsel for the Prosecution has put a statement to you which deals with 50 to 60 per cent of the inmates employed at the plant only being able to do part of the work which was expected of them. I wasn't clear what you wanted to express by that and I should like to ask you to somewhat explain your statement. In particular, would you tell me how that paragraph was actually put into your affidavit?

A.- I really can't remember that. At any rate, that wasn't only my impression, namely, that approximately 60 per cent of the inmates were only able to work. That was the view of nearly all leading employees of Farben. It is quite natural that a human being who is no longer at liberty, even if he is in good physical condition, will never be able to produce the same output as a free man. When we complained to the Works Manager, Dr. Dierrfeld, that the work wasn't progressing properly because for logical reasons the inmates weren't up to the work, he said, "Gentlemen, you don't have to be surprised about that. If I were an inmate I wouldn't act differently."

Q.- I see. But I must ask you about that once more. By those 50 to

60 per cent are you referring to the output of the inmates in comparison to that of the German and free workers?

A.- I wanted to state that the output could only be estimated at being 50 to 60 per cent.

Q.- That is, 60 per cent of the output of a German or free worker?

A.- Yes, that was my view.

Q.- Did the Works Management take into account this low output of the inmates or did they endeavor to increase the output of the inmates by forcible measures?

A.- It was my conviction that it was considered to be senseless by the Works Management to use any means to increase the output.

MR. MINSKOFF: Mr. Commissioner, may I observe that all the questions being asked now are questions which were answered in his original affidavit for the Defense. He's given those answers to the Defense and it is all in evidence. We have cross-examined about that and he has just changed the numbering of them. Now, all Dr. Seidl is doing is burdening the record with all his answers which are in the original affidavit.

THE COMMISSIONER: Are you objecting to these questions, Mr. Minskoff?

MR. MINSKOFF: I don't think this is redirect and therefore it is objectionable.

THE COMMISSIONER: Dr. Seidl, you probably have that in mind, but do you wish to make any specific reply to this objection?

DR. SEIDL: Mr. Commissioner, the question of the ability of the inmates as to their percentage in their output was dealt with by the Prosecution in their cross examination. It was, after all, the Prosecution

who brought up these 50 to 60 per cent and it is therefore the Defense's duty to clarify what this witness actually meant by these 50 to 60 per cent. I am convinced that I kept exactly within the limits of cross examination and I am further convinced that I would have severely violated my duties as Defense counsel had I not clarified that particular point. But, of course, now I have no more questions on that matter.

THE COMMISSIONER: I think that the argument is sufficient for the record and you will go ahead with your examination, please, Dr. Seidl.

BY DR. SEIDL:

Q.- The Prosecution asked you about the physical condition of the inmates and about the amount of food they had. You said that a number of these inmates were under-nourished. Tell me, were all inmates undernourished or did that differ?

A.- Differences were particularly recognizable between the so-called Aryan and Jewish inmates. The Jewish inmates were naturally far worse off. Among the so-called Aryans there were quite a number of inmates who looked rather well. Of course, there were some too, among the Jewish inmates, but to a much lesser extent. It depended how long they had already been in the concentration camp.

Q.- Did you at any time hear of a Meister or any other member of Farben, that he had punished an inmate because of too low an output of work or that he reported him?

A.- I only observed once or twice how a Meister was beating an inmate. However, you can't designate that beating is a mistreatment. I could only

find out the cause in one case. In the other case the Meister said that the inmate made a technical mistake because of stubbornness which led to the cessation of a part of the machinery. This inmate, incidentally, was quite intelligent.

Q.- And did this mistreatment lead to the damage of health of these inmates?

A.- No, not at all. They continued to work immediately thereafter.

Q.- Do you know whether the Works Management issued a prohibition at a very early date according to which no one was to be mistreated at the construction place?

A.- Yes. I think I already mentioned that today. I can recall that at the end of 1943 it was expressed again and again during plant conferences that the foreign workers and the inmates were to be treated decently and that that would serve the cause much better. This directive was issued by Duerrfeld and the Works Management and it was to be transmitted to the lower levels. Ninety-nine percent of the German employees would have behaved decently even without such directives. On the other hand, there were people who were inclined to torture people anyway and that, of course, could not be noticed by the Works Management even if they patrolled the plant every day. But I heard that whenever something did occur Dr. Duerrfeld always took steps to stop it.

Q.- Witness, did you ever see a so-called output shoot?

A.- No, I only heard of it.

Q.- Do you know whether the entire output of a detail was fixed for the

detail as such on only for the individual inmate?

A.- As far as I have heard it was always the output of the entire detail which was considered because it was only in that way that one could compile the statistical material.

Q.- At the very beginning of the cross-examination you were asked whether the employment of inmates at Auschwitz plant Farbon was human; whereupon you answered that the Works Management was only employing inmates because such employment was ordered by the highest authorities. I now want to ask you whether at any time, according to your conviction, the Works Management had issued an order which could have led to inhumane treatment.

A.- No, I don't know that.

Q.- Could you observe —

A.- What?

Q.- I haven't finished my question. Could you observe that the Works Management failed to do everything which was necessary in order to improve the working conditions at the plant for the inmates as well as for the free workers?

A.- In view of the construction of such a huge plant, it is natural that at the beginning it cannot be called a paradise. The hygienic installations were as unfavorable for the Germans at the beginning as they were for the inmates. Of course, as time progressed it all developed quite speedily. The technical installations were improved to such an extent that

a lot of superfluous work was eliminated. In addition to that, the hygienic installations were also improved.

DR. SEIDL: I have no further questions, Mr. Commissioner.

THE COMMISSIONER: Is there any recross-examination?

MR. MINSKOFF: If it please the Commissioner, yes.

RECROSS-EXAMINATION

BY MR. MINSKOFF:

Q.- Mr. Witness, you stated you never were in Monowitz, isn't that correct?

A.- Yes.

Q.- You don't really know what kind of hygienic facilities there were in Monowitz?

A.- What I said about hygienic installations referred only to those within the plant. I was never in the Camp Monowitz. I only passed it from the outside.

Q.- Now, Mr. Witness, you stated on your redirect that time and time again the Construction Management conferences discussed the beating of inmates by civilians and said it should not be done. Now, Mr. witness, will you tell this Court if the civilians, Meisters and foremen, were not beating the inmates, why was it necessary to discuss it time and time again in conferences?

DR. SEIDL: I can't recall having heard the witness make a statement which would justify any such conclusion. As far as I remember the witness testified that it was repeatedly pointed out that the workers were to be well-treated.

MR. MINSKOFF: Mr. Commissioner, this is the most improper thing we have ever had in this court. Time and time again Dr. Seidl gets up here and testifies so that the witness knows what to say. The record will show for itself what he said and what he didn't say, and he ought to object or

not object and not state what the witness has told us or hasn't told us.

THE COMMISSIONER: Well, is there anything you wish to put into the record in response to Dr. Seidl's objection?

MR. MINSKOFF: No; I'd like to have the witness answer the question.

THE COMMISSIONER: The witness may answer.

THE WITNESS: Would you please repeat the question briefly?

BY MR. MINSKOFF:

Q.- You testified, Mr. witness, on redirect under questions put to you by Dr. Seidl, that at construction conferences that you attended it was time and time again discussed that civilians were beating inmates and that the Construction Management said that that should not happen and gave instructions against it. Now I am asking you this question: If, in fact, civilians were not beating inmates why was it necessary time and time again to discuss that at construction conferences?

A.- I can't remember having used the expression "again and again". I can only remember having said that during plant or building conferences this fact was pointed out because the Works Management had learned of such cases. The plant was about six or seven kilometers long and Duerrfold, of course, couldn't be everywhere. I said that 99 percent of the German employees had a great deal of compassion for these inmates. Only a very small percentage - and I think in every nation you will find that percentage - were guilty of these terrible violations. Of course, such matters were reported to the Works Management, but not again and again, but only from case to case.

Q.- Mr. witness, during the time that you were at I.G. Auschwitz, isn't it a fact that approximately 90 per cent of the inmates working at I.G. Auschwitz were Jewish or political prisoners?

A.- How many Jewish or political or criminal inmates there were and what the proportion between them was, I could only recognize in the course of time. Today, or once after I had been at Auschwitz for a year, for instance, I could say that at least 30 per cent of them were criminal inmates.

Q.- And the other 70 per cent?

A.- The other 70 per cent, well, I can't guarantee these figures that I am giving you but I assume that the other 70 per cent consisted of 40 per cent Jewish inmates and 30 per cent so-called Aryan inmates; but I can't tell you that exactly. Of course, the picture changed again and again.

Q.- Now, Mr. Witness, I want to get back one moment to those 50 to 60 per cent. Do you recall when you made a statement to the Prosecution the original statement merely said 40 to 50 per cent of the inmates could almost do what was expected of them and that you thought that was wrong and you crossed the typewritten part out and, in your own handwriting, said "50 to 60 per cent could almost do what was expected of them."

Now, Mr. Witness, in that sentence you speak only of whether they were able to do what was expected of them and you make no mention of whether Farben counted their work at a higher per cent or a lower per cent. Now, are you at this time changing that answer? Do you wish to say now that

you merely meant Farben could expect only 50 to 60 per cent. or was your answer correct when you gave it to us under oath?

A.- The correction which I made from 40-50 to 50-60 cannot be considered to be a correction of mine. At that time I was convinced that I never said there were 40 to 50 per cent. I thought it was only a mistake by the court reporter and I insist on these 50 to 60 per cent.

Q.- Yes, I understand that, Mr. witness, and I have no quarrel with it. The question I am asking now is at that time when you said that the correct figure was 50 to 60 per cent of the inmates could almost do what was expected of them, you were speaking only of their ability to carry out what was expected of them by the Farben management and not at what figure the Farben rated their efficiency.

Now I am asking you, are you trying to change that testimony today or do you still stand by it?

A.- I was only a very small plant loader. I only had a very small range of view from which I could observe these matters. I don't know what the basis was at the higher levels for the estimate of the percentage of the output. These 50 to 60 percent were only estimated by myself and I actually recognized in the course of time that that was in accordance with the truth. As I later recognized, Farben actually took this low output into account.

Q.- Mr. Witness, you still haven't understood it. You were not speaking, in the statement you gave to the Prosecution, about output, whether it was 20 per cent or 50 or 80 or a hundred; you specifically were mentioning

the conditions of the work and how many persons of those working there, the inmates, could do almost what was expected of them and how many could not even do that and in the category of those who could do almost what was expected of them you said 50 or 60 per cent belong in that category. Now, is that your correct testimony?

A. - Yes, At that time, when making my testimony --

DR. SEIDL: Your Honor, I object to the continuation of the examination. I think that the witness no longer knows what exactly he is being asked by the Prosecution. I think that he is to be afforded an opportunity to explain what exactly he meant by these 50 to 60 per cent. I want to make this motion because the Prosecution already made an objection during my redirect examination that this matter was being treated and now the Prosecution once more is embarking on this matter. In my conviction the witness is entirely confused and he doesn't know what is being asked of him at all.

MR. MURKOFF: I make this observation for the record, Mr. Commissioner. First, the objection we raised on the redirect was not directed to this 50 to 60 per cent. It was directed to the efficiency ratings of Farben given to the various employees, which is covered in the original affidavit and which Dr. Seidl went into all over again. On this particular question the language in the affidavit which this witness gave to the Prosecution is clear and unambiguous and requires no interpretation. The only question before the Court is whether the witness now wants to change that. Its language is perfectly clear and there is no question about it.

Now, the witness of course is perfectly free to change that or say whether it makes any difference by it, and that was the opportunity I wanted to give him when I asked him the question.

THE COMMISSIONER: Well, he's answered all your questions so far.

MR. MINSKOFF: There are no further questions for the Prosecution.

THE COMMISSIONER: Dr. Seidl, have you anything further to ask this witness? We are coming now to eleven o'clock and I imagine that the film or the sound arrangements will have to be changed, so perhaps you will organize your questions while we take a recess unless you have something you wish to say immediately.

This hearing will be recessed for fifteen minutes.

(A recess was taken.)

THE COMMISSIONER: The Commission is in session again.

RE-DIRECT EXAMINATION

BY DR. SEIDL:

Q Witness, I must ask you once more to explain what this 50% to 60% means which the Prosecution spoke of?

A I was able to answer this question when I was interrupted. In my subconscious mind, I was always thinking of a work output of 50% to 60%.

Q What does the 50% to 60% refer to?

A It refers to the work output of a normal, free, well fed worker.

Q The Prosecution has introduced, for identification, document NI-11642. Paragraph 5 of this document deals with this 50% to 60% again. Now I want to ask you whether this Paragraph 5 in this affidavit was formulated by you or was it written by the Prosecution or just given to you to sign?

A As far as I remember, I was asked ...

Q Witness, I want to know whether . . .

MR. MINSKOFF: Let him answer the question you put to him.

THE WITNESS: As far as I remember, I was asked what the percentage was of the inmates who could be expected to do full value work, and I said 50% to 60%.

BY DR. SEIDL:

Q Witness, that is something new now. Now you are saying you were asked what the percentage of the inmates was who could be expected to do a full day's work. Now, do you mean by that the work of a free German or

foreign worker?

A Yes, that's what I mean. I mean the work of a free German or foreign worker.

Q Now I want to ask you again, was paragraph 5 in this affidavit which you signed for the Prosecution written by you, or was this whole affidavit prepared by the Prosecution and just given to you to sign, based, of course, on interrogations?

A I always answered the questions that were asked me. I was to...

Q Witness, I am asking you whether this affidavit which consists of three pages was formulated by you and written by you?

A No.

Q And whether it was finished and given to you for signature?

A It was just given to me to sign.

DR. SEIDL: No further questions.

THE COMMISSIONER: Mr. Winkoff, I think that if you have further questions in regard to this witness, that they should be rather brief, because I think the entire subject of the affidavits presented has been fully covered.

MR. WINKOFF: They will be brief, Mr. Commissioner.

THE COMMISSIONER: If you please.

RE-RE-CROSS EXAMINATION

BY MR. WINKOFF:

Q Mr. Witness, can you read German?

A Yes.

Q You understand German?

A Yes.

Q You are German, are you not?

A Yes.

Q Now, when you gave this affidavit to the Prosecution, did you first have an interrogation to answer questions of the Prosecution?

A Yes.

Q And then, on the basis of that interrogation, the affidavit was drawn and submitted to you?

A Yes.

Q Did you read it carefully through?

A Yes.

Q And did you make any changes in it?

A Yes.

Q Now, on this particular paragraph that we are referring to, and on which there has been so much discussion, when the paragraph was first given to you, did it say 40% and 50%?

A Yes.

Q Was it your own suggestion and your own handwriting that you changed it to 50% - 60%?

A I couldn't remember having said anything about 40% to 50%. I only know that I said 50% to 60%. I am certain of that.

Q That's right. So it is your recollection that the right figure was 50% to 60%?

A Yes.

Q And you were given the opportunity, by the Prosecution, to put

the figure that you thought was right down?

A Yes.

Q After you made all the necessary corrections that you thought necessary, you then signed the affidavit?

A Yes.

Q You initialled each change?

A Yes.

MR. MINSKOFF: Now Mr. Commissioner, at this time I don't want to burden the record and offer the entire affidavit in evidence, but in view of the discussions we have had here on this one paragraph, I offer paragraph 5 of NI-11642 in evidence. We have already given this an exhibit number.

THE COMMISSIONER: Yes, that's correct.

MR. MINSKOFF: It will be the same exhibit number in evidence instead of identification.

THE COMMISSIONER: Dr. Seidl.

DR. SEIDL: I object to the admission of this document.

THE COMMISSIONER: What is your objection?

DR. SEIDL: I object to the admission of this document in evidence. The witness has testified at some length on this subject, paragraph 5, which consists of only two sentences which, according to the witness, he did not write himself. I see no justification in introducing a new document now, after the introduction of evidence has been concluded. But since the Prosecution wants to introduce this document, I must put some more questions to the witness.

THE COMMISSIONER: Dr. Seidl, just a moment. I hope that you will

make your examination brief because I am convinced that the material covered by these affidavits has been fairly gone into by both counsel, and in Mr. Minskoff's last examination, he has not brought any new material in, material that has not been dealt with before. I won't foreclose you on further examination, but I would like you to make it brief. I think you should make it brief, yoo.

DR. SEIDL: Witness, the Prosecution has offered paragraph 5 of their affidavit, NI-11462. Now I want to ask you, does this give an accurate picture of all the statements that you made in answer to the questions of the Prosecution?

THE WITNESS: Yes.

DR. SEIDL: I am speaking only of paragraph five.

MR. MINSKOFF: Mr. Commissioner, that is purely improper. It implies that this one paragraph can give a pure and complete picture of the whole situation at Auschwitz. There is one limited point involved here, and to state that we have put it in so as to show that it covers all of Auschwitz or the entire interrogation, of course it does not.

THE COMMISSIONER: Your remarks will be in the record for the Tribunal's consideration. You may proceed.

DR. SEIDL: No further questions.

MR. MINSKOFF: No questions from the Prosecution.

THE COMMISSIONER: The witness is excused.

Are there any other witnesses to be examined this morning?

MR. MINSKOFF: There were several others, Mr. Commissioner, but I am informed that they have not yet arrived. They are also Duerrfeld

witnesses. May I ask Dr. Seidl if they will arrive sometime today, this being the last day? Have you some statement on that?

DR. SEIDL: I am informed that the witness Schemulin will certainly arrive today, but I have heard that there is a railroad strike going on. It is possible that as a result of the strike the witness was not able to appear in time. I want to inform the Prosecution immediately and the Commissioner to the extent . . .

THE COMMISSIONER: Dr. Seidl, as you will undoubtedly understand, the Commissioner is extremely anxious to cooperate, and I will be in my office until 5:00 o'clock. If your man comes at 5:00, we will have to make some arrangements for an extra time session, but I will cooperate with you in any way necessary.

This hearing will recess until further notice.

(The hearing recessed pending further notice.)

CERTIFICATE OF COMMISSIONER

I, JAMES G. MULROY, AGO #B-397399, hereby certify that I am a duly appointed, qualified and acting Commissioner, to take the testimony of witnesses under Order of Tribunal No. 6, in the case of United States of America vs Krauch et al; that pursuant to said Order, upon the dates hereinafter listed, I have supervised the taking of testimony of witnesses examined before me, and said testimony has heretofore been properly recorded, reported and filed in the Office of the Secretary General and now constitutes a part of the official transcript of proceedings in the above case; and the dates of such examinations, names of witnesses and pages of said official transcript are as follows:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
6 May, 1948	Ernst Hackemann	13739-13751
6 May, 1948	Gerhard Dietrich	13752-13771
6 May, 1948	Guenther Schiller	13772-13783
6 May, 1948	Herbert Ullitzka	13784-13797
7 May, 1948	Gustav Karr	13894-13924
7 & 8 May, 1948	Rudolf Doemming	13925-13963
8 May, 1948	Max Faust	13965-14041
12 May, 1948	Karl Bayer	14458-14490
→ 12 May, 1948	Fritz Schermuly	14492-14507

I further certify that the aforesaid transcript pages comprise a full, true and correct report of said proceedings, testimony and evidence heard and recorded at proceedings before said Commissioner.

Dated at Kurnberg, Germany, May 24, 1948

James G. Mulroy
Commissioner of Tribunal No. 6

Received
1 Original, signed
1 Mimeo, signed
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AFTERNOON SESSION

(The hearing reconvened at 1450 hours, 12 May 1948.)

THE MARSHAL: The Commission is again in session.

COMMISSIONER: Dr. Seidl, it seems that you have a witness for examination this afternoon.

DR. SEIDL: Mr. Commissioner, another witness has arrived called Fritz Schermuly.

COMMISSIONER: Is he a German?

DR. SEIDL: Yes, he is a German.

COMMISSIONER: Will you bring the witness in, Mr. Marshall?

Mr. Witness, you will raise your right hand, say "I", and state your name.

THE WITNESS: I, Fritz Schermuly.

COMMISSIONER: Repeat this oath after me, "I swear by God, the Almighty and the Omniscient, that I will speak the pure truth, and will withhold and add nothing."

(The witness repeated the oath.)

COMMISSIONER: The witness may be seated.

DR. SEIDL: You may proceed.

COMMISSIONER: Just a moment, Dr. Seidl. Mr. Marshal, will you state for the record what defendants are now present in court?

THE MARSHAL: May it please Your Honor, the defendant, Duerrfeld, is present in the courtroom.

COMMISSIONER: Very well, you may proceed, Dr. Seidl.

DR. SEIDL: Mr. Commissioner, the affidavit of the witness, Fritz Schermuly, of 16 September 1947 is in Book VI of Defense Document Book.

14492



Fifth Joint Motion of the
Prosecution and Defense
to correct the Trans. Transcript.
Case 6. from Page 12192
Nin 14499 filed after Trans.
22 April 1948, 12191 (1-147)

It is on page 1 of that document book and bears the Number 402.

COMMISSIONER: Dr. Seidl, I lost some of that. Would you mind going back and giving me that data again? Thank you.

DR. SEIDL: I shall repeat what you just said. The affidavit of the witness, Fritz Schermuly, is in Document Book VI of the defendant, Dr. Duerrfeld's document books. It is on page 1 of that book. The affidavit bears the number, Duerrfeld 402, and it was submitted as Exhibit 103. You may proceed, Dr. Seidl.

DIRECT EXAMINATION

BY DR. SEIDL:

Q Witness, on the 16th of September 1947 you made an affidavit available to the defense. It was sworn before a notary in Munich on that same day?

A Yes.

Q Witness, are these statements made in that affidavit made by you voluntarily?

A Yes, this affidavit was made voluntarily.

Q And it was signed by you voluntarily, was it?

A Yes.

Q. In order to complete the record, would you please state your full name and the date of your birth?

A. I, Fritz Schermuly, was born -- on the 21st of July 1897, at Munich.

Q. I have a few supplemental questions to put to you, Witness. At the beginning of your affidavit you state that after serving a term or prison for trade in narcotics you were sent to a concentration camp, Mauthausen, in November 1941 on preventive custody?

A. Yes.

Q. Had you been sentenced by another court in Germany before that?

A. As far as I remember, I was sentenced in 1920 with 7 days imprisonment; 1921, 6 months; and in 1930, 1 year; in 1931 2 years and 9 months; and then afterwards I served my sentence in the camp.

Q. As far as you remember, there were four proceedings against you, were there?

A. Yes.

Q. When were you sent to a concentration camp for the first time?

A. That was November 1941 when I was sent to Mauthausen.

Q. When were you sent to the labor camp Monowitz?

A. April 1943.

Q. Were you the only inmate who in April 1943 was transferred from Mauthausen to Monowitz, or were there a number of you?

A. Approximately 2,00 or 2,500 inmates were transferred from Mauthausen to Monowitz.

Q. What was the triangle you wore at Mauthausen or Gusen when you were

transferred to Monowitz — was it green or red?

A. It was green.

Q. Were the other 2,000 or 2,500 inmates, who in April 1943 were transferred to Monowitz with you, inmates wearing a green triangle?

A. There were only inmates there wearing a green triangle.

Q. In what state of health, as far as you remember, were these inmates who in April 1943 were sent from Mauthausen or Gusen to Monowitz?

A. We were sent to Monowitz where we were received by the camp leader, Schoettl, and camp physician, Dr. Endress. We all had to take off our clothes, and we then had to bathe and then parade before the camp physician. When they saw us, they shook their heads because we had all become very thin and looked like skeletons. The next day the protective custody camp leader told us that we would stay at the block for 14 days, staying in bed, without doing any work, and then he said in addition to the food given to us by the camp, we would receive another meal in order that we may recover. That was actually done. Only 14 days afterwards we were assigned to our work, to our various work details. The largest detail, which was assigned at the time, was a detail consisting of only "green" inmates, which had to work on a lawn. This detail was gradually dissolved and then distributed among the other details. The food at the Monowitz camp in comparison to the food at other camps was considerably better. In the camp of Mauthausen, Gusen, Steyr, all these camps where I was an inmate, we received nothing but beets and potatoes, and these were mostly in a foul condition. In Monowitz, for instance,

we received our noon meal at night. As a rule, we received a noon meal at noon, but there we got it at night. In addition, we had sausages and a tenth of a pound of margarine. That was three times a week. Four times a week we had a fifth of a pound of margarine. We had a quarter bread. Then we had sausage and cheese or sausage and marmalade, and sometimes cheese and butter. Then we had a quarter bread, and then one liter of thick soup. Also we had the so-called "Buna" Soup at noon, which was given to us by the I.G. Farben. I remember an incident there, six months after I was in Monowitz, I became a capo. I had a detail of 25 men. We had to do digging work. We had to carry stones and then carry something else on our way back. I had to cross the main road.

Q. I must interrupt you, Witness. I don't think it is necessary for us to go into details now. If necessary, I shall put some questions to you, but at first I want to know how your own physical state, as well as the physical state of health of the other 2,000 inmates developed, who had been transferred to Monowitz.

A. When I went to Monowitz from Mauthausen I weighed 60 pounds, and I was 1 meter 80 high. I stayed in Mauthausen for some time longer, or in Gusen-Mauthausen. I naturally would have died, but in Monowitz we all recovered. I don't know of one of the inmates who had been transported to Monowitz who died of exhaustion. Naturally, now and again it did happen that they died, but whether that was due to the inmate himself or whether it was due to the food, that is another matter, altogether. Some inmates came home in the evening and stayed quietly, that is, after

the work was finished, after the roll call, but other inmates visited one friend here, one friend there, and sort of loafed around the camp, as we called it.

Q. I think what you have said so far will suffice. Would you briefly summarize how the physical state of health developed during that time at Monowitz?

A. It developed very favorably.

THE COMMISSIONER: Just a minute, please, Dr. Seidl, I am going to ask you, does this examination consist of changes or alterations of the affidavit, or is this material already contained in the affidavit?

DR. SEIDL: This material consists of some supplementations to the affidavit. I only have a very few questions, after which I shall be able to conclude my direct examination.

THE COMMISSIONER: I think you should make them rather brief because I think the controlling rule on these examinations, if I understand correctly, is that you may ask the witness if he desires to make any changes or corrections, but I am quite certain that it was never contemplated that the affidavit should be expanded indefinitely. You may go ahead.

BY DR. SEIDL:

Q. Witness, in your affidavit, you state at the very beginning that the SS alone and sometimes the inmates themselves were responsible for food. Was there a so-called health administration of inmates in the Monowitz Camp?

A. Yes, of course. The internal administration in the camp neither concerned the SS nor anyone else. There was the block eldest, the camp oldest, the capo, etc.

Q. That will suffice for the moment now. Who was in charge of the allocation of the inmates to the various work details?

A. That was the labor service leader or the labor service clerk.

Q. Who was that?

A. That was a certain Schulhof.

Q. And the labor service leader concerned himself with details or did he leave that to the labor service cler, Schulhof?

A. He naturally had to leave it to the clerk because the labor service leader didn't concern himself about details, he just submitted the suggestion and that this one or that one was transferred there and there.

IR. SEIDL: Very well. I have no further questions to the witness.

THE COMMISSIONER: The prosecution will cross examine. Before anything further is done, however, it will probably be in order for me to advise this witness that although it is his privilege and right to testify quite freely as to any matters brought to his attention, the answers to questions should be directly responsive and the witness should not add anything outside the questions asked; and also, Mr. Witness, will you please observe the lights in front of you. The yellow light, that indicates that you are talking too fast, and you will have to slow down in order for us to get the record complete; and when the red light flashes, then you must stop talking until you have been told to go on. If you will

just keep those things in mind, we will proceed smoothly and we will get the job done promptly. Thank you.

CROSS EXAMINATION

BY MR. MINSKOFF:

Q. Mr. Witness, will you tell the court what your inmate number was that you have inscribed on your hand, on your arm?

A. 13955. It wasn't tattooed on my arm for one reason. Only Jews and foreigners had their arms tattooed. That did not apply to Reich Germans.

Q. You mean that did not apply to Aryan Reich Germans?

A. Well, there were some Germans who had themselves tattooed voluntarily, but none of them were forced to do that at Monowitz.

Q. Now, Mr. Witness, in your affidavit you mentioned that you served the term of imprisonment for trade and narcotics, and then were sent to the Concentration Camp Mauthausen in November 1941. On your direct examination by Dr. Seidl you elaborated upon your affidavit and mentioned several earlier convictions in 1920, and '21, and I believe one in '31. You also added that you had a green triangle, which is a criminal triangle. Now, Mr. Witness, just so the record will be complete, will you tell the court the first time you were convicted of a crime?

A. I believe in 1920.

Q. And will you tell the court what the nature of the crime was?

A. Because of theft.

Q. Mr. Witness, will you now tell the court the second time you were convicted of a crime?

12 May 48 A SW 19-7 Spears (Ramlar)
Court 6, Case 6 - Commission.

A. The second time in 1923 -- beginning of 1923, April, or so,
because of theft, and because of receiving.

CROSS EXAMINATION

BY MR. MINSKOFF;

Q Now, Mr. Witness, I know this is some time back, but isn't it a fact that you were convicted of a crime in May 1922?

A Quite possible, but I can't remember it now. Yes, I think: two months; I think so, yes.

Q And that was also for theft?

A Yes, yes, theft, that is right.

Q And do you recall again in 1922, the following month, being convicted for theft?

A Yes. Well, that concerned one trial. As far as I remember, that was all one trial: two months.

Q Now, Mr. Witness, the 1920 conviction and the May 1922 convictions and the June 1922 conviction were three separate convictions with three separate sentences. Now do you not recall that at all at the present time?

A I only know that I was imprisoned for two months. It may have been connected with the other sentence, but I don't know.

DR. SEIDL: Mr. Commissioner, I don't want to object to that question; I am not sure whether the translation came through. He said that there was one trial but that a number of deeds were considered at the same time during that one trial. Perhaps the prosecutor will repeat his question.

BY MR. MINSKOFF:

Q I will be glad to. Mr. Witness, will you try to recall

whether it is a fact or not that after the 1920 conviction which you spoke of there were two convictions in 1922, one month apart, and both for theft, and both involved separate sentences?

A Yes, I had two sentences, but only one sentence was served by me--but there were two actual trials connected in one sentence--two procedures connected in one sentence; that is quite possible, yes.

Q All right. Mr. Witness, now the next time you were convicted of a crime you state was 1923, in May.

A Yes, beginning of 1923.

Q And what was the nature of that crime?

A That was receiving, theft, and burglary; all together, a sentence of three years.

Q Perhaps there is a little confusion here, Mr. Witness. I think you are a little bit ahead of me on your dates. I think you are thinking about July 1923. Now in May 1923, do you recall whether you were convicted of a crime of trading in gold and silver and platinum, on the 14 of May 1923?

A That was--yes, yes, that concerned that matter; eight days or something. I am not quite sure. That is quite possible, yes. That was some illegal trading; yes.

Q And then the following month, Mr. Witness, do you recall being convicted of grand larceny?

A Yes; two years and six months.

Q And also five years loss of civil rights?

A Five years, yes.

Q And then, Mr. Witness, on the second of July 1923 were you convicted of another crime?

A That was receiving, yes.

Q That was receiving stolen goods?

A Yes.

Q Now, Mr. Witness, when was the next time that you were convicted of a crime?

A Nineteen-thirty, I think.

Q And what was the nature of that crime?

A Receiving stolen goods.

Q Mr. Witness, do you recall whether on the 14 of June 1929 you were convicted of receiving stolen goods?

A Yes; 1929 not 1930, yes, yes. That was 1929 and not 1930.

Q And you were sentenced to the penitentiary?

A One year, yes.

Q And again with five years loss of civil rights?

A Yes.

Q Now will you tell the Court the next time you were convicted of a crime.

A In 1932.

Q Now will you tell the Court the nature of that crime?

A Theft of narcotics.

Q And was that grand larceny?

A Yes, grand larceny.

Q And you were sentenced to the penitentiary again?

A Two years and nine months.

Q And again with five years loss of civil rights?

A Yes, five years loss of civil rights.

Q Now, Mr. Witness, when was the next time you were convicted of a crime?

A I wasn't convicted again afterwards.

Q When were you placed in protective custody?

A After serving my sentence—I am not sure when it ended—1933 or 1934 is when I finished serving my sentence; I think it was 1934, yes, June 1934.

Q And then what happened to you between '34 and '41 when you were sent to Mauthausen?

A Nothing happened.

Q You were free?

DR. SEIDL: Objection. Mr. Commissioner, I don't want to object, but I think there is a misunderstanding. The witness was arrested between 1934 and 1941, and a question might be put to him to that effect.

BY MR. HINSKOFF:

Q Well, that is the purpose of the question that was put to him. Mr. Witness, just so the record will be clear: After your last conviction which kept you in prison until '34, you then remained in prison in protective custody from '34 on until '41, is that correct?

A Yes, that is right, until 1941. In 1941, I was transferred into the camp.

Q Now, Mr. Witness, have you told the Court all the crimes of which you were convicted?

A As far as I remember, yes.

Q Are you sure you have told all?

A As far as I remember, yes.

Q Mr. Witness, isn't it a fact that as recently as the 27 of March 1946 you were convicted of embezzlement?

A Yes, that was embezzlement; yes, that is right.

Q Thank you very much, Mr. Witness, no further questions.

REDIRECT EXAMINATION

BY DR. SEIDL (For Dr. Duerrfeld):

Q Witness, Farben is indicted here because in the Auschwitz Plant of Farben they have employed concentration camp inmates. You testified before that 2,500 inmates were transferred from the Mauthausen Camp with you to the Monowitz Camp. My question to you is this: what sort of people were the other 2,500 inmates? Were they the same sort of people as you who had served previous sentences?

A Yes, they all served sentences.

MR. HINSKOFF: I don't recall asking any question on cross examination which would have anything to do with the line of questioning being pursued by Dr. Seidl at the present time. He is burdening the record by going on with his own direct examination.

THE COMMISSIONER: Then you are making an objection, are you?

MR. HINSKOFF: Yes, the prosecution objects to that line of questioning.

Dr. SEIDL: I believe that this will not burden the record because we see here for once what sort of inmates were actually employed in the construction of the buna plant.

MR. HINSKOFF: That has nothing to do with the redirect examination of this witness.

DR. SEIDL: It is very important in judging the questions pertaining to this trial what type of inmates these people were, and it is very important to know that 2,500 of the inmates, the same way as this inmate, were only in the concentration camp because they had a certain amount of sentences. We now have to show what sort of inmates were actually housed in that camp.

THE COMMISSIONER: I think, Dr. Seidl, you have explained your position with perfect clearness. I will ask you now how long do you intend to pursue this line of inquiry?

Dr. SEIDL: I only wanted to put one question to the witness which reads as follows:--

THE COMMISSIONER: You may do that; proceed.

BY DR. SEIDL:

Q Were the 2,500 inmates who were transferred with you from Mauthausen to Monowitz, people who had previous convictions, or what sort of people were they?

A These were only such inmates who had previous convictions, and that was shown by the green triangle.

Q I have no further questions to the witness.

THE COMMISSIONER: Have you something further?

MP. MINSKOFF: Just one question, Mr. Commissioner.

BY MR. MINSKOFF:

Q Mr. Witness, will you tell this court whether the four and one-half million inmates who died at Auschwitz-Birkenau were criminals?

DR. SEIDL: I object to that question. This question neither arises from the direct examination nor from the cross examination. We all know, Mr. Commissioner, what the prosecution intends with that question and we also know that this question has nothing in the slightest to do with this trial.

MR. MINSKOFF: No more questions from the prosecution, Sir.

THE COMMISSIONER: I don't think we have to go any further with that. You have made an objection. The record will show it. Have you any further questions, Mr. Minskoff?

MP. MINSKOFF: Nono, sir.

THE COMMISSIONER: Are there any other witnesses to be heard this afternoon?

DR. SEIDL: Mr. Commissioner, we have no more witnesses.

THE COMMISSIONER: Very well, this witness is excused and this hearing is recessed until further notice.

(Witness is excused).

(The hearing adjourned without date.)

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Against

KRAUGH and Others (Case VI)

SIXTH JOINT MOTION OF THE PROSECUTION
AND DEFENSE TO CORRECT THE ENGLISH TRANSCRIPT

The Prosecution and Defense herewith join in moving that the Tribunal order forthwith that the corrections indicated below be made in the official mimeographed copies of the English transcript:

Transcript			
Page	Line(s)		PROPOSED CORRECTION
14518	26	"and illegal"	should be "or illegal".
14522	8	"you know"	should be "you now".
14523	21	Change "there is no"	to read "there would have been no".
"	23	Place comma after last word	"anything,".
"	24	Change "he as now says it does."	to "as he now says it doesn't."
14525	17	"24th of 25th"	should be "24th or 25th".
"	27	Place period after "Mr. Sprecher" and delete next word "that".	Begin new sentence with "He says", deleting comma after it.
"	28	Insert "that" before "occurred",	at beginning of line.
14527	16	Insert "we" before "expected".	
"	26	"not contained"	should be "now contained".
14531	21	"80 inmates"	should be "18 inmates".
14535	9	Last word "Document"	should be "Exhibit".

14507 (-1-)



Transcript Page	Line(s)	PROPOSED CORRECTION
14535	18	"to take" should be "that you take".
14536	7	"in any way" should be "in no way".
"	17	Delete "by" after "documents".
14537	29	"One more thin." should be "One more thing."
14539	4	Delete "did na" after "The rule".
"	20	Insert "you" after "to give",
"	21	Delete "in order" after "opportunity".
"	27	"in those matters" should be "with those matters and".
14541	30	"1847," should be "1947,".
14542	30	"1526," should be "15266,".
14543	7	Insert "in part the same as the notion which" before "Dr. Sieners".
14545	9-10	Delete as repetition "1947 exhibits upon the theory that they are too remote to the time when the".
"	21	"affidavit," should be "affidavits,".
"	27	Delete "and" after "point of view,".
"	28	"to me" should be "for me".
14547	27	Place quotation marks after "legalism."
14548	4	"if international" should be "of international".
14549	21	"to the opportunity" should be "of the opportunity".
14553	26	"felloe" should be "fellow".
14555	4	Change comma to semi-colon after "justice".
14556	22	Place colon after "Powers" and delete next words "they say:".
14557	5	"KELSEN9 ep. cit.)" should be "KELSEN (op.cit.)".
"	8	"was liable" should be "were liable".
"	21	Delete period after last word "proof".
14559	32	"sp. cit." should be "op. cit."

Transcript

Page	Line(s)	PROPOSED CORRECTION
14560	27	"the the conduct" should be "then the conduct".
14563	6	First word "last," should be "least,".
14564	4	"six months" should be "six months".
"	3	"thoroughly" should be "thorough".
14565	21	"is a sense" should be "in a sense".
14566	1	First word in line should be "He".
14567	10	Insert dash after "Finch".
14568	32	Delete comma after "knowledge". Change following words "on account of" to "through".
14569	25	"and impossible" should be "an impossible".
14570	24	Change comma to period after "unjust".
"	25	Change semi-colon to period after "decision".
14575	16	"indicated" should be "indicted".
14576	8	Insert after line 8 and before line 9 "Forced recruiting of soldiers from among the inhabitants of occupied countries."
14577	30	Insert "the" before "1930's."
14579	10	Change comma to period after "law".
"	22	Delete comma after "justice".
"	23	Delete comma after "enemies".
14581	2	"treaty peace" should be "peace treaty".
14588	13	Insert "of the State.. In the famous standard work on English theory" after "Government".
14589	25	Second word "contral" should be "central".
14594	18	"inhabitions." should be "inhibitions."
14598	2	"concept fo" should be "concept of".
14599	13	"Dr. Boeltchan." should be "Dr. Boettcher."
"	14	"DR. BOELTCHEN." should be "Dr. BOETTCHER."

Transcript Page	Line(s)	PROPOSED CORRECTION
14600	5	First word "Not" should be "Now".
14603	23	Add "that" after "page 26:" at end of line.
"	25	"national," should be "nations,".
14605	3	Insert "the" before "prosecution",
"	22-23	Delete "The prosecution has been more than presumption."
"	27	Change period to exclamation point after "comparison".
14606	7	Delete "program".
"	9	Place comma after "armament" and delete next word "program,".
14607	29	Change "one dollar man" to "dollar a year man".
14608	14-15	Correct transcript page numbers referred to are 10491-10502.
14609	1	Insert "all" after "above".
14610	4	Delete comma after "as well" at end of line.
14612	2 v.d	Delete second word "the".
14613	2	"Fron 1940" should be "from 1940".
"	20	Change line 20 to read "letter-carrier and not a sinister organization for active espionage, counter-intelligence, etc. 27). The air raid protection measures, 28)".
"	26	Add "in" after "annoying" at end of line.
14614	2	"IC" should be "I.G."
14614	3	Place closing parenthesis after first word "industries".
14615	2	"pictures" should be "pictured".
14616	4	"to Count II" should be "In Count II",
14618	4	Delete comma after "as to".
"	22	Change second word "for" to "regarding".
14619	7	Change comma to period after "authorities". Begin new sentence with "He".

Transcript Page	Line(s)	PROPOSED CORRECTION
14619	11	"Ferdwerke" should be "Fordwerke".
14620	26	"and irreproachable" should be "an irreproachable".
14622	5	"Asuckel," should be "Sauckel,".
"	9	Place comma and insert "but as" after "only that".
"	10	Place comma after "confirmed". Delete next words "the fact that".
14624	25	Change "and coved not benet," to read "that had to be net,".
"	31	"enterprise." should be "enterprises."
14627	4	Change comma to period after "Dr. Krauch". Begin new sentence with "As for".
"	10	Change semi-colon to comma after "Convention".
"	26	Insert "aa)" before "The prosecution" at beginning of line.
14628	1	Insert "where," after "HIMMLER,".
"	3	Insert "is" before last two words "also the".
"	7	Insert "a" after first word "from".
14629	2	"hold" should be "held".
"	11	Insert "bb)" before "As far as" at beginning of line.
14630	24	Change "whether" to "weather".
14633	17	"is being" should be "were being".
14634	13	"idolated" should be "isolated".
"	20	"origina," should be "origin,".
14636	14	"a priority," should be "a priori,".
"	16	Last two words "that a" should be "then a".
14637	24	"on the fact" should be "on the face".
"	27	"Openins" should be "Opening".
14642	29	Last two words "lost this" should be "lest this".

Transcript	Page	Line(s)	PROPOSED CORRECTION
14644	25	"workd history" should be "world history".	
"	26	"are perennieu" should be "ere perennius".	
14645	1	Delete "in." after "set out".	
"	11	"4000,000.-" should be "400,000.",	
"	14	Change "a trick minions" to "his minions".	
14647	6	"Borstand" should be "Vorstand".	
"	8	"please" should be "pleas".	
14648	6	"issued." should be "issues."	
14651	23-24	Delete "How little Moritz imagines would history to be..."	
14653	9-10	Change period to comma after "Heiden" and continue sentence with "if you wish" in line 10.	
"	15	"ambitios" should be "ambitious".	
"	29	"orgins" should be "origins".	
14654	1	Delete first word "Prosecution" as repetition.	
"	15	First word "had" should be "have".	
"	26	"the God" should be "the Good". Also delete comma after same word.	
14655	21	"Here to," should be "Here too,".	
"	25	Change period to comma after "authority".	
14656	1	"for ours." should be "for hours."	
14657	4	Insert "a" after "throw".	
"	8	"portentous" should be "portentious".	
14658	1	Change parenthesis to period after last word "there".	
"	30	Place quotation marks before "we must".	
"	30-31	Place quotation marks after "adjustments".	
14659	1	Place quotation marks before first word "to" and after "nowadays."	

Transcript		
Page	Line(s)	PROPOSED CORRECTION
14659	15	Delete "to" after "to say".
"	14	Delete semi-colon after "indictment".
"	15	Place period after "brief".
"	20-21	"religio" should be "religious".
14665	22	"in asession" should be "in assessing".
"	24&ff	"IMY" should be "IMT".
14666	9	"IMY" should be "IMT".
14668	6	"dregre" should be "degree".
"	30	"beifely" should be "briefly".
14669	22	"unconceivable" should be "inconceivable".
14671	6	Place comma after "aggrandizement".
14672	17	Place quotation marks before "The frenzied".
14676	29	Change question mark to colon at end of paragraph.
14680	19	Change "L" to colon after "words".
14682	34	"alledge" should be "alleged".
14686	21	"neither" should be "either".
"	22	Last two words "nor or" should be "or of".
14688	12	Place comma after "Vorstand".
14692	4	Place comma after "Indictment".
14699	6	"of evern" should be "of every".
"	12	Place quotation marks after "Vorstand."
14703	7	Change first word "is" to "in".
"	18	Delete comma after "fact" at end of line.
14705	22	Delete "for" after "provides".
14706	19	Change "resp." to "or".
14707	2	Third word "which" should be "what".

Transcript	Page	Line(s)	PROPOSED CORRECTION
14707	19	"ot leave" should be "to leave".	
14708	9	"time he has" should be "time as he had".	
14710	19	Insert "but" after "last".	
"	22	First word should be "Civil".	
14711	1	"A. these" should be "All these".	
14714	22	"a member" should be "a matter". Delete comma after "practice".	
"	9	Delete comma after "established".	
14716	9	Delete comma after "evidence".	
"	10	Delete comma after "months".	
"	11	Delete comma after "rules".	
"	12	Second word should be "vengeance".	
14718	27	"account" should be "a Count".	
14721	26	Delete comma after "view".	
14721	27	Delete comma after "to the".	
14722	27	Change comma to semi-colon after "superseded".	
14724	24	Place "8." at beginning of line, before "2".	
14725	25	"copies out" should be "copied out".	
14726	19	Delete comma at end of line after "knowledge".	
"	22	Place "9." at beginning of line,	
14727	8	Place "10." at beginning of line, before "3".	
"	12	Delete comma after "Prosecution".	
"	13	Delete comma after "criminals".	
"	18	Place "11." at beginning of line, before "a)".	
14729	7	Place "12." at beginning of line, before "b)".	
"	23	Change "although" to "and".	
14732	25	Change first word "number" to "page".	

Transcript

Page	Line(s)	PROPOSED CORRECTION
14733	1	"member" should be "members". Last word "is" should be "in".
"	8	Delete comma after "whole" at end of line.
14734	27	Third word "far" should be "for".
14735	26	"during the war," should be "during a war,". Delete "that" after "necessary,".
14738	13	Insert "by" after "examined".
"	14	"plant" should be "plan". "wagin" should be "waging".
14739	11	Change quotation marks to single quote before "material". Place single quote before quotation marks after "by me."
"	15	Delete comma after "thinking".
14739	27	"was needed" should be "was in need".
"	28	Change "incidentally" to "scientifically".
"	32	Place parenthesis before "Schnitzler".
"	34	Place parenthesis before "Pruefungstelle".
14740	9	Insert "of the Ministry any evidence for the planning and preparation" after "request".
"	12	Delete comma after "negotiations".
"	14	Delete comma after "peace".
14741	1	Place "19." at beginning of line before "4."
14742	30	Last two words should be "it is".
14743	10	Place "bb)" at beginning of line.
"	23	"my witness." should be "any witness."
"	26	Place "cc)" at beginning of line.
"	31	Place "dd)" at beginning of line.
14744	17	Place "ee)" at beginning of line.
"	25	Place comma after "hostilities", and also after "country".

14507(-9-)

Transcript Page	Line(s)	PROPOSED CORRECTION
14744	30	Place "ff.)" at beginning of line.
14745	6	"sons" should be "son" with single quote after it. Also insert "and" before "showed".
"	32	Place "eg)" at beginning of line.
"	33	Insert "the" before "interrogations".
14746	10	"effected" should be "affected".
"	20	First word "these" should be "those".
"	22	Add "(Record of 10 May 1948 and Schnitzler Exhibits 28 and 182)" after "evidence"
"	24	Delete comma after "interrogations".
"	25	Place comma after "testified".
"	29	Insert "20." at beginning of line.
14747	9	"Nola" should be "Wola".
"	10	"I dealt" should be "I shall deal".
14747	13	"In other words," should be "in other words,".
"	25	Place "21. (1)" at beginning of line.
14748	10	Place "22. (2)" at beginning of line.
"	15	Second word "here" should be "have".
14749	1	Place quotation marks before "spoliation".
14750	2	"Justices" should be "Justice".
"	4	Insert "(Reich Law Gazette 1935, part I, page 839 & ff.)" after "June 1935,".
"	10	Place quotation marks after "to it."
14751	12	Place "23. (3)" at beginning of line.
14752	3	"may lond" should be "may lead".
"	25	Place quotation marks before "economic".
"	34	Insert "into" before "consideration".
"	36	"It is," should be "If it is,".

Transcript Page	Line(s)	PROPOSED CORRECTION
14753	18	"neasyres" should be "measures".
14754	3	Change comma to period after "permitted". Begin new paragraph with "24. (4) These economic....".
"	11	"bht latter" should be "the latter".
14755	3	Place "25. (1)" at beginning of line. "Rhono-Soulence" should be "Rhono-Poulenc".
14756	3	"May make" should be "May I make".
"	6	Place "26." at beginning of line.
14758	13	Place "27." at beginning of line.
"	13	Place comma after "Collaborator", and also after "Quisling".
"	22	Place comma after "interest".
14760	7	Place "28." at beginning of line.
14761	22	Place "29 (a)" at beginning of line.
14762	14	Place "30 (b)" at beginning of line.
"	19	Place "31. (c)" at beginning of line.
14763	5	Change "West," to "East,".
14764	7	"pleas" should be "plea".
"	8	"referred" should be "refer".
"	19	Delete quotation marks before "In general,".
14765	6	Insert comma after "Warfare".
"	27	Delete quotation marks before "This material".
14766	7	Change "internationally" to "intentionally".
"	14	"Prosecution is" should be "Prosecution's".
"	19	Place parenthesis before "Schnitzler". Delete parenthesis before "Iden."
14767	2	"the British competition" should be "a British competitive".

14507(-11-)

Transcript Page	Line(s)	PROPOSED CORRECTION
14767	27	Delete "have been given".
"	28	Insert "have been given" before "there are no limits".
14768	10	Place quotation marks after "industry".
14769	8	Delete "as" before "unmistakable".
14770	19	Delete quotation marks after "action."
"	21	Delete quotation marks before "c."
14771	17	Delete quotation marks after "made."
"	19	Delete quotation marks before "Concerning".
14772	3	Delete "partly following and".
14773	11	Delete quotation marks after "territory."
"	23	Delete quotation marks after "Accordingly,".
"	31	Delete quotation marks after "allies."
14774	14	Change "internally-minded" to "internationally-minded".
14775	29	"is not" should be "is now".
14777	25	"complaint," should be "compliant,".
14778	7	Delete comma after "forebade".
14779	11	"casue" should be "cause".
"	15	"internation" should be "international".
14780	2-6	Delete entirely lines 2, 3, 4, 5, & 6.
"	22	"built." should be "guilt."
"	29	Insert the following paragraph after line 29 and before line 30: "By these observations, which left a deep impression on us, Military Tribunal IV in the Case versus FLICK and others prefaced the first judgment ever passed on industrialists of a conquered country on the ground of violations of the principles of International Law."
"	30	First word "That" should be "What".

Transcript

Page	Line(s)	PROPOSED CORRECTION
14781	6	"willing so" should be "willing to".
"	12	Delete comma after "spirits". Also after "up".
"	31	"to rasie" should be "to raise". Delete last word "a".
14782	1	"determing" should be "determining".
"	27	Add "under Count 2," after "Czechoslovakia" at end of line.
14783	11	"I to," should be "I, too,".
"	25	Delete period after "countries".
14784	19	"describing" should be "described".
14785	16-17	"The Prosecution hardly knows the what" should be "The Prosecution would have hardly shown the".
"	18	"to realized" should be "to realize".
"	20	"sum upon" should be "sum up". Place comma after "character".
"	21	First word "mentaly" should be "mentality".
14786	5	"he want" should be "he went",
"	26	Change line 26 to read "Hitler and had more access to information about his".
"	30	Insert "a" before "fact." "to fe forced" should be "to be forced".
14787	5	First word "more" should be "mere".
"	8	"a gig photographic" should be "a big photographic".
"	9	Change comma to question mark after "1941".
14790	26	"charge" should be "charges".
14791	3	Delete first word "have".
"	15	Change "to assume that" to "to impute to".
14793	25	"allocated bor" should be "allocated for".
"	26	First word "le" should be "the". "furess" should be "duress".

Transcript Page	Line(s)	PROPOSED CORRECTION
14794	24	"autarcy," should be "autarchy,".
14795	1	"headed" should be "hoed".
14796	11	Delete "it" before "has been".
14797	30	"for cridits" should be "for credits".
14798	3	Last word "of" should be "to".
"	11	Insert "been" after "having".
14799	7	Change "approximately k,800 persons." to read "approximately 1,800 square meters, which alledgedly was intended to house 2,000 persons."
"	18	Delete "they" after "collapse".
"	30	Place quotation marks after "such."
14800	18	Change "for their greater part of the" to read "for the greater part could not be employed for any work at all, has to be attributed exclusively to the omissions on the part of the".
14801	19	"that none" should be "that no one".
14803	17	Second word "out" should be "our".
14805	6	First word "who" should be "why".
14806	14	Delete comma after "punishing". Also delete comma after "law".
14807	16	"procluded" should be "precluded".
14808	9	"for the war" should be "for a war" (twice).
14810	3,4	"the war" should be "a war".
"	13	"antarchy" should be "eutarchy".
14811	14	"of having" should be "with having".
"	17	"Cross" should be "Gross".
14814	9	Delete "a" before "treatment,".
14816	12	"Dr. Poters," should be "Dr. Peters,".
"	15	"on enclosure" should be "an enclosure".

Transcript Page	Line(s)	PROPOSED CORRECTION
14821	8	"finds it" should be "finds its".
14822	5	"that there had ever been" should be "there ever having been".
"	17	Delete "were" before "carried out".
14826	17	Place quotation marks after "obtained."
14827	3	"he did," should be "he did not,".
"	4	Delete "not" before "mention".
"	13	"miscredit" should be "discredit".
14836	1	"resupposes" should be "presupposes".
"	12	"skills" should be "skill".
"	21	Place period after "Farben". Begin new sentence with "The".
14837	2	"knowning" should be "knowing".
14840	1	Delete comma after first word "but".
14841	15	"adherent of" should be "adherent to".
"	24	"damages." should be "dogmas."
14843	16	Place comma after "cartels" and change "an approachment" to "rapprochement".
14844	21	Delete dash after "terminology".
14847	21	Change first word "who" to "which".
14849	19	"belife" should be "belief".
"	32	Delete period after "Farben".
14850	9	Place comma after "practices" and change "Farbenindustries" to "Farbenindustrie".
14854	29	Insert "working" before "with".
"	27	"in proved" should be "is proved".
14857	14	Delete "of".
14859	20	Change period to comma after "alone" at end of line.

Transcript

Page	Line(s)	PROPOSED CORRECTION
14862	16	Delete comma after "chemicals" at end of line.
14863	5	"seriour" should be "serious".
"	12	Insert "but" after "spears,".
14864	16	"advantages for" should be "advantage to".
14865	21-22	"prerequisited" should be "prerequisites".
14867	7	Last word "productions" should be "production".
"	10	Insert "is" before "shown".
14868	11,13	"Vermittlungsstelle. We" should be "Vermittlungs- stelle W".
" & ff	12&ff	"Reich Ministry of Economies" should be "Reich Ministry of Economics".
14869	20	"itw own" should be "its own".
14872	3	First word "Evern" should be "Every".
14874	3	"decrease" should be "decrease".
"	4	Insert "the" before "commercial".
"	8	Delete comma after last word "Director".
"	26	Delete comma after "1935" at end of line.
14878	3	"basis" should be "basic".
"	16	"were produced" should be "was producei".
14879	13	"cofedendents" should be "co-defenients".
"	17	Delete apostrophe after "conclusions".
14880	14	Change "comission" to "commissioner".
"	24	Add "the" after last word "by".
"	26	Insert "a" before "forced".
14882	4	Insert "the" before "allocation".
14883	1	"adlucted evidence" should be "evidence adluced".
"	2	Delete second word "not".

Transcript	Page	Line(s)	PROPOSED CORRECTION
14884	24	"problem" should be "problems".	
14886	6	"charter of association" should be "articles of incorporation".	
14887	26	Change "A valuable" to "a valuable".	
14892	5	"improbably." should be "improbable."	
"	12	Delete "and" before "manpower".	
14893	8	Change "orders" to "ordered".	
14894	5	"Dr. STAUSS" should be "DR. STRUSS".	
14897	2	"Echnical" should be "Technical".	
"	4	Delete first word "has".	
14899	23-24	"investion" should be "invention".	
14900	6	First word "tradiction" should be "tradition".	
14901	10	Insert "for" before "Chemistry".	
14902	8	Add "the" after last word "from".	
"	22	Insert "in" after "motorist".	
14904	29	Delete second word "easier" and insert "more easily" after "act".	
14907	23	Delete first word "still". Change "unusually" to "usually" and insert "even" after "free".	
"	24	Delete "geographically".	
"	31	Delete "has" and change "become" to "became".	
"	32	Insert "war and" before "even now,".	
14908	1	Change "remind of" to "recall".	
14909	28	Insert "men" after "principal".	
14911	29	Delete comma after "forces" and place comma after "increased".	
14912	26	Place comma after "then" and change "f.i." to "for instance,". Also add "on" at end of line after "from".	
"	28	Insert "of international law" after "problems".	

Transcript Page	Line(s)	PROPOSED CORRECTION
14912	31	Second word "along" should be "alone".
14913	18	"also from" should be "also in".
"	20	Second word "ignored" should be "did not know".
"	22	Insert "which had" before "declared,".
"	27	"in as far as" should be "insofar as".
14914	3	Last word "Dalcen" should be "Balkan".
"	10	First word "evoled" should be "evolved".
14915	21	Insert "the" after "protect".
"	24	Place comma after "proved," and delete next word "also".
14916	1	"Case 17" should be "Case 7".
"	11	"difamation." should be "defamation."
"	13	"put it at" should be "put it on".
14918	6	First word "condition" should be "conditions".
"	18	Change "were," to "was," and insert "for" before "the Poles".
"	24	"plant to" should be "plant from". Also change "in other cases," to "for other workers,".
"	25	Change comma to semi-colon after "worse".
14920	10	Last word "tons" should be "tens".
"	12-13	Change line 12 through "war." in line 13 to read "plants by the SS during the last years, at least during the last months of the war."
"	16	Place comma after "term" and change "and then" to "of".
14921	14	Place comma after "Bormann".
14922	8	Delete "of" after "despite".
"	18	Delete comma after "people".
"	19	Place comma after "labor" and after "firm" and change "at the" to "of their".

14507 (-18-)

Transcript

Page	Line(s)	PROPOSED CORRECTION
14922	20	Delete comma after second word "and".
"	25	Delete comma after "countries".
14923	2	"under duress" should be "in a state of necessity".
"	16	First word "condisition" should be "conditions".
14924	4	Place comma after "so" and change "and serious" to "any serious".
"	32	Change period to comma after "coercion".
14925	18	Change "capitalist" to "entrepreneur" and insert "undermined by the official measures controlling the entire economy" after "was so".
"	22	Insert "rightly of an undermining of property, a disguised expropriation of" after "speaks".
14926	1-2	"was, practically speaking, not possible" should be "was practically impossible".
"	21	"frawn" should be "drawn".
14927	12	"lutherien" should be "Lutheranism".
"	25	"decade" should be "decades".
14928	7	Change quotation marks and comma to dash after "(in)dividuals".
"	14	"Grotuis," should be "Grotius,".
14929	25	Change period to comma after "(pe)riod,".
14931	12	"That is" should be "This is".
"	13	Delete first word "the".
"	17	"repartitions" should be "repetition".
14935	17	"was in so far responsible by setting" should be "was responsible insofar as he set".
14936	10	Delete comma after "form".
"	12	"Insofar I refer" should be "So far I have referred".
"	15	"volume" should be "document book".
"	16	"Indictment." should be "Prosecution."

14507(-19-)

Transcript Page	Line(s)	PROPOSED CORRECTION
14937	3	"by Farben" should be "of Farben".
"	4	"contribution" should be "contributions".
"	5	Place comma after "itself,".
14938	24	Delete "voluntarily". Change "of the foreign" to "of voluntary foreign".
"	28	Delete comma after "workers".
14939	30	First word "The" should be "They".
14940	15	Delete "has" after "Farben".
14941	3	Place period after "workers" and delete "and they in these efforts".
14942	14	"Farben are" should be "Farben were".
"	15	"permits" should be "permitted".
14943	23	Delete "Farben" after "produced".
"	24	Last two words "has done" should be "did".
"	29	Delete "has" after "He".
14944	4	"A." should be "All".
"	15	Insert "as" before "favorable".
"	17	"repoting" should be "reporting".
14946	12,13	"reformatory" should be "education".
"	28	"taken," should be "submitted,".
"	32	"prisoners" should be "inmates".
14947	13	Insert "the" before "Auschwitz".
"	24	Insert "the" before "volume".
14948	3	Delete comma after "persons" and insert "from" before "whom".
"	4	Delete "from,".
"	5	Delete comma after "those".
"	16	Insert "the" before "German".

Transcript	Page	Line(s)	PROPOSED CORRECTION
14948	19		Place dash at end of line after "rumors".
"	31		"corrected" should be "connected".
14949	9		First word "Alympic" should be "Olympic".
"	15		Change "so as" to "necessary".
"	21		Delete "at" before "last word "the".
"	22		First word "neginning" should be "beginning".
14950	15		Delete period after "man".
14952	26		Delete second word "by".
14953	5		Insert "man," after "young".
14954 &ff	4&ff		"Dec." should be "Document".
14955	33		Delete second word "and".
14956	21		First word "Whether" should be "Did".
"	35		"murder?" should be "murderer?".
14957	3		"described" should be "desecrated".
"	15		Last word "himself." should be "itself."
14958	3		"other" should be "others".
14962	31		Delete comma after "people".
14963	8		"n t" should be "now".
14964	11		Delete comma after "Germans".
"	19		Delete comma after "conduct".
14965	8		Insert "a" before "leading".
14966	2		"je" should be "he".
"	6		"weight" should be "weigh".
"	11		"by saying:" should be "to say:".
14967	25		Second word "satp" should be "set up" and insert "a" after "merely".
14968	9		"Waterm coal" should be "Water, coal".

Transcript		
Page	Line(s)	PROPOSED CORRECTION
14968	11	"deposts, abd" should be "deposits, and".
"	25	"ideas" should be "idea".
14969	8	Delete "A" at beginning of line.
"	17	Insert "expressed" after "clearly".
"	23	Third word "cell" should be "call".
14970	10	Place comma after first word "laborers" and change next word "which" to "and this".
"	14	Last word "was" should be "were".
"	16	Insert "at" before "all approve" and change "suing" to "using".
"	23	Last word "clear" should be "clever".
"	24	Delete comma after "things".
14971	1	"true," should be "truthful,".
"	2	"if it was" should be "if I was".
"	6	Place comma at end of line after "truth".
"	9	Delete comma after "were".
"	22	Place comma after "barracks".
"	24	"unfortunately" should be "unfortunate".
"	28	"Mirkenau;" should be "Birkenau".
14972	3	Place comma after "Auschwitz" and also after "some".
"	4	"Mitiner" should be "Hitler".
"	6	Place comma after "participation".
"	7	Delete comma after "been".
"	10	Line 19 should read: "made me believe with certainty that Otto Ambros, to come back to him,"

Transcript	Page	Line(s)	PROPOSED CORRECTION
14972	11	Second word "noy" should be "not".	
"	21, 27	"know" should be "knew".	
14974	4	"one" should be "on".	
"	13	"Meitel" should be "Keitel".	
14975	10	"not business" should be "the business".	
"	23	"question" should be "questions".	
"	28	Delete comma after last word "Without".	
14976	27	"Byhernfurth" should be "Dyhernfurth" and "Ialkenhagen," should be "Felkenhagen,".	
"	28	"that way" should be "the fact".	
14977	5	Delete "the" before "Farben,". Also delete parenthesis before "the Sparte".	
14979	19	Insert "did" after "Those who".	
14981	2	Place period after "order."	

Transcript	Page	Line(s)	PROPOSED CORRECTION
14983		11	Insert "a" after "to wage".
"		14	"held" should be "hold".
14984		11	Insert "it" before "anyhow."
"		24	"constuting" should be "constituting".
14986		23	Delete comma after "used".
14990		14	Insert "was" after "pig-metal".
14991		29	"were" should be "was" after "magnesium".
14992		31	"sining" should be "aiming".
14993		19	Delete comma after "material".
14996		14	Delete comma after "conclusion", and change "statement" to "statements".
14997		6	"conditions." should be "condition."
"		16	Last words "If it" should be "If they".
"		17,18	"it would" should be "they would".
"		29	Insert "the" before "highest".
14998		1	"blissful" should be "useful".
"		2	Delete first word "the".
"		18	Change "which" to "what" before "practical".
14999		4	Change "commuting" to "construing".
15000		29	Insert "were" before "concerned".
"		30	"did only bring" should be "only brought".
15001		17	Delete first word "Farben". Insert "Farben" before last two words "did not".
"		29	Change "The removal" to read "To begin with, the removal".
"		30	Delete "to begin with," and insert "which" before last word "was".
"		31	Insert "the" before "German".

Transcript Page	Line(s)	PROPOSED CORRECTION
15003	5	Delete comma after "Farben".
"	9	"considerable" should be "considerably".
"	15	"robber" should be "robbed".
15004	2-3	"did question" should be "questioned".
"	8	"know" should be "knew".
15005	1	"irrefutable" should be "irrefutably".
15006	10	Insert "to" before "claiming".
"	12	"uncontestably" should be "incontestably".
15007	13	Delete comma after "Farben".
15008	12	"curetpraetor" should be "curat praetor".
"	16	Place comma after "DAF".
"	17,18	"exemplary" should be "exemplary" (twice).
15009	27	Change "province." to "country."
"	30	"conference" should be "conferences".
15010	9	"province" should be "country".
"	9	"province," should be "provinces,".
15011	18	"to obtain" should be "to abstain".
15012	3	"be BUERGIN" should be "by BUERGIN".
"	6	"in the affirmative" should be "if the affirmative".
"	26	Place comma after "interpretations".
15013	3	"to a certain" should be "to ascertain".
"	7	"ropounded" should be "propounded".
"	17	"congruous" should be "congruous".
"	18	"disturbed" should be "distorted".
"	19	Delete last two words "the details" as repetition.
"	21	Place comma after "activities".

Transcript Page	Line(s)	PROPOSED CORRECTION
15013	25&ff	"defendants," should be "defendants,".
15014	8	"these men" should be "those men".
"	9	"fir all" should be "for all".
"	10	"stack corrorations" should be "stock corporations".
"	13	"to those duties to which" should be "for those duties which".
"	15	"critic I" should be "critical".
"	18	"partieul" should be "partial".
"	25	Place comma after last word "work".
15015	6	"tireessly and then" should be "tiréssly on them".
"	9	"conductive" should be "conducive".
"	16	"promises" should be "premises".
15016	3	Insert "is" after "world".
"	6	"pur ort" should be "purport".
"	21	Insert "on" before "purely".
"	26	Insert "was" before "promoted".
"	27	Delete "as" after "as well".
15017	21	Add "the" after "put" at end of line.
"	28	Insert "the" before "air force."
"	32	Insert "an" before "exchange".
15018	3	"was unable" should be "was able". "this products" should be "this product".
"	9	Delete comma after "would" at end of line.
"	20	Insert "participation of the" after second word "the".
15020	2	"to America" should be "in America".
"	6	"little or not" should be "little or no".
"	16	"embryanic" should be "embryonic".

Transcript	Page	Line(s)	PROPOSED CORRECTION
15020	26		Insert "Dr. Buete-fisch." after "initiative of". Last two words "Dr. Buete-fisch's" begin new sentence.
"	30		"stnthesis" should be "synthesis". "The latest" should be "the latest", continuing same sentence.
15021	5		"Remburg" should be "Hamburg".
"	6		Change period to comma after "to develop". Continue sentence with "according".
"	8		"esport." should be "export."
"	10		Insert "these" before "gentlemen".
15022	1		Insert "whom he would have to" before "report".
"	14		"to give away" should be "to give away".
"	22		Insert "procedures and processes for several months. In return the I.G. Farben" before "sent every year".
"	29		"in demonstrated" should be "is demonstrated".
15023	30		Insert "the" before "action".
15024	28		"(Mirtscheftsgruppe)" should be "Wirtschaftsgruppe)".
15025	14		Insert the following after "Oel A.G." and before "was founded": <p>"and the membership of my client, Dr. Buete-fisch resulting therefrom in the Aufsichtsrat of this company. In my motion I at that time already explained how the evidence introduced by the Prosecution, which it further tried to sustain through documents presented subsequently in the cross-examination of my client, is by no means suited to establish a proof of any violation of the provisions of the Control Council Law by the I.G. Farben or by Dr. Buete-fisch. In the case-in-chief, it was possible to prove that the Kontinentale Oel A.G."</p>
"	18		"any any" should be "and any".
"	21		"of petroleum" should be "on petroleum".
"	22		Delete "must," after "Dr. BUETE-FISCH".

Transcript Page	Line(s)	PROPOSED CORRECTION
15025	24	"coporational" should be "corporation".
"	27	"tesks" should be "tasks".
15026	1-2	Change "as the effect of" to read "due to".
"	4	"Russien" should be "Russia".
"	6	"any client" should be "my client".
"	10	Change comma to period at end of line after "A.G."
"	12	Second word "posers" should be "powers".
15028	2	"The treory" should be "The theory".
"	7	"indisputable" should be "indisputably".
15032	7	First word "avent" should be "event".
"	13	"subject by" should be "subject to".
"	15	Insert "the" before "death penalty".
"	18	Insert "the" before "ultimate".
"	19	"Prosececution" should be "Prosecution".
15033	1	Insert "the" before "private".
"	5	"order." should be "orders."
"	27	"charished" should be "cherished".
"	29	Delete comma after "only".
15034	7	"Maniowitz" should be "Monowitz".
15035	2	"law stanlard" should be "low stanlard".
"	16	First word "I" should be "Is".
"	20-21	"installations" should be "installation".
"	28	"occured." should be "occurred."
15036	13	"gelonged" should be "belonged".
"	16	"Leuna" should be "Leuna".
"	19	Delete "a" before "culpable".

Transcript Page	Line(s)	PROPOSED CORRECTION
15036	24	"Dix II" should be "Dr. Dix".
"	29	"jobs, which" should be "jobs as".
15037	20	First word "dut" should be "due".
15038	3	"to objections." should be "for objections."
"	16	Insert "on" after "prevailing".
15039	10	Delete comma after "site".
"	18	Delete "was" before "constantly".
"	21	Change "with regard to" to "within". Also insert "which was" after "commitment".
15040	1	Delete comma after "leader" at end of line.
"	12	"were able" should be "was able".
"	21	"to his duties," should be "to the duties".
"	26	"Kallegium" should be "Kollegium".
"	29	"confirm" should be "conform".
15041	5	"and alteration" should be "any alteration".
"	14	"transacrians" should be "transactions".
15042	17	Change "desired" to "describe".
"	20	Place comma after "specialist" at end of line.
15043	22	Change comma to period after "the Gau".
15044	21	"excused" should be "an excuse".
15045	4	Place comma after "joining".
"	6	Insert "the" after "define".
"	27	Change "both in Bavaria as well as in" to read "either in Bavaria or in".
15046	27	Delete comma after "notion".
15047	3	"his interpretation," should be "this interpretation,".
"	11	"leader," should be "leaders,".
"	27	Insert "That" before "the dependents".

Transcript Page	Line(s)	PROPOSED CORRECTION
15048	28	Delete last two words "did not".
15050	7	Delete comma after "all".
"	27	"archies," should be "archives,".
15051	22	"he know" should be "he knew".
15052	2	"fortunates that" should be "fortunate than".
"	3	Change "considering" to "concerning".
"	5	"Dr. Buete-fisch's" should be "Dr. Buete-fisch".
"	15	"put on" should be "put in".
15053	24	"proved per se;" should be "proved per se;". Also "it the fact" should be "is the fact".
"	32	"or joined" should be "or to join".
15054	6	Delete comma after "refusal".
"	15	"bestrowed" should be "bestowed".
"	16	"to refused" should be "to refuse".
"	20	Insert "by" before "weighing".
"	30	Insert "up" after "In summing".
15056	1	Delete comma after "Dr. von Metzler".
"	6	Change period to comma after "Haeffliger".
"	15	Add "as" after last word "regarded".
15057	11	"be regarded a follower" should be "be regarded as a follower".
"	30	"Nordisk Lettetall" should be "Nordisk Lett- metall".
15058	15	"on influence" should be "an influence".
"	18	Delete fourth word "with" as repetition.
15059	4	"that my clinet" should be "that my client".
"	11	Insert "one" after "possible".

14507 (-30-)

Transcript Page	Line(s)	PROPOSED CORRECTION
15059	30	"particularly hold true" should be "particularly held true".
15060	3	"to oadd jobs," should be "to odd jobs,".
"	32	Delete comma after "fact":
15061	4	Delete comma after "business-partners".
15062	26	Delete comma after "arrangements".
"	31	"an particularly" should be "a particularly".
15063	15	"of its" should be "of their".
"	31	Delete comma after "Farben" and after "it".
15064	5	Delete comma after "Ludwigshafen".
"	6	Insert "for the" after last word "and".
15064	29	"Farbens transactions" should be "Farben's transactions".
15065	11	Delete comma after "authorities".
15066	3	Delete comma after "suspect".
15067	11	Delete comma after "time".
"	27	"conclude" should be "concluded".
15069	9	"stand time" should be "stand the time".
"	11	"considered" should be "consider".
15070	29	"we are not surprised" should be "we shall not be surprised".
15071	31	Last word "showed" should be "shown".
15074	14	"cning" should be "coming".
"	16	"inner" should be "former".
"	19	Delete "as" after "incorrectness".
"	23	"in organization" should be "in this organization".
15075	10	Line 10 should read: "from the needs of the situation of German economy, to which I will".

Transcript	Page	Line(s)	PROPOSED CORRECTION
15075	25	"into aditions" should be "into edictions".	
15076	1	"which handle" should be "which handled".	
"	6	"newspaperman" should be "newspapermen".	
"	12	"than warranted" should be "than is warranted".	
"	14	"my clients'" should be "my client's".	
"	24	"connections during" should be "conditions during".	
15077	26	"co-operation the," should be "co-operation, then,".	
"	27	Place quotation marks after "by him."	
15078	13	"quilt" should be "guilt".	
"	16	Last word "parts," should be "part,".	
"	26	Delete comma after "evidence".	
"	30	"was to be proved." should be "has to be proved."	
15079	17	Delete period after "need".	
15080	18	"of books to America." should be "of books to be sent to America."	
15081	9	"arrangements" should be "receptions".	
15082	29	"chose" should be "choose".	
15083	4	"into the library" should be "in the library".	
"	5	Delete comma after "anybody".	
"	8	Delete comma after "mistakes".	
"	9	Place comma after "prosecution,".	
"	25	"indignity" should be "indignation".	
15084	22	"a criminal" should be "any criminal".	
15086	2	Delete comma after "facilities".	
"	7	"it 1938" should be "in 1938".	
"	15	"proffered" should be "preferred".	

Transcript Page	Line(s)	PROPOSED CORRECTION
15086	19	"von Loraner" should be "von Lersner".
"	25-26	"diametrically" should be "diametrical".
15087	17	Change "Which were the causes of origin" to read "What were the causes for the origin".
"	18	Insert comma after "Control".
15088	12	"import" should be "imports".
"	13	"export," should be "exports,".
"	16	"recess" should be "reduction".
"	19-20	"of the town" should be "of native".
"	21	"comparison with" should be "relation to".
"	23	Last word "condition" should be "conditions".
"	24	"morale as" should be "moral sense as".
"	29	"truse" should be "trust".
15090	7	"caused of" should be "caused the increase of".
"	11	Insert "the" before "production".
"	12	Insert "the" before "manufacturing".
15091	2	"own country," should be "home country,".
"	7	Place comma after "policy".
"	12	Insert "in" before last word "her".
"	16	Insert "of" after "abroad".
"	19	Place comma after "agreement),".
"	21	"trade or" should be "trade and".
"	29	"stoo" should be "too".
15092	1	"were provided" should be "was provided".
"	17	Delete comma and insert "for" after first word "economy".
"	23	"incrased" should be "increased".

Transcript	Page	Line(s)	PROPOSED CORRECTION
15093	12	"intelligentsia improverished" should be "impoverished intelligentsia".	
"	17	"redicalised" should be "radicalised".	
15094	2	"a wold" should be "a world".	
"	13	"interests" should be "interest" and "perios" should be "period".	
"	21	Insert dash after "currency".	
15095	19	Change dash to comma after "success".	
"	29	"mush less" should be "much less".	
"	30	Place period after "regime." Begin new sentence with "Governing".	
15096	18	"was powered" should be "was lowered".	
15097	8	"ed the other" should be "as the other".	
"	10	"geconomics." should be "economies."	
"	20	Place comma after "highways),".	
"	24	Place period at end of line after "(1935)".	
15098	8	"contents" should be "content".	
"	30	"material" should be "materials".	
15099	3	"world to economy." should be "to world economy."	
"	12	First word "basis" should be "basic".	
15100	4	"of new business organizations," should be "of a new business organization,".	
"	12	"iolts" should be "debts".	
15102	14	Last word "matior." should be "matters."	
15103	22	Insert "being" after "today".	
15105	4	delete last word "later,".	
"	11	"patical" should be "capital".	
"	16	"Horeau" should be "Moreau".	

Transcript Page	Line(s)	PROPOSED CORRECTION
15111	28	"Teke" should be "Tako".
15116	16	Delete "the" after "concerning".
15117	16	Change "these usually" to "those usually".
15118	20	"(Nebessaeure)" should be "(Nobelssaeure)" and last word "months." should be "month."
15119	24	Insert "as" after first word "mad".
15123	9	Place period after "limits." Begin new sentence with "As it".
"	15	"research" should be "reproach".
"	19	Change "for more" to "far more".
15125	19	"become a prisoner-of-war." should be "become prisoners-of-war."
"	30	"the prisoner-of-war" should be "the prisoners-of-war".
15126	6	First word "Thess" should be "These".
"	8	Delete comma after "tools".
"	15	Last word "prioaner" should be "prisoners".
15127	5	"a very light work," should be "very light work,"
15130	21	Last word "But" should be "Buy".
15133	29	"brihing" should be "bringing".
15135	7	"give" should be "gives".
"	8	"assertion" should be "assertions".
15137	12	Change "information or" to "information on".
15139	10	Insert "had" before the last word "to".
"	11	Insert "view of" before the last word "the".
"	12	"victim of a purpose," should be "victim of a purge."
"	13	"unintimidated" should be "unintimidated".
"	15	"of the foreign" should be "on the foreign".

Transcript Page	Line(s)	PROPOSED CORRECTION
15140	22	Second word "frim" should be "from".
15141	18	"sonverted" should be "converted".
"	32	"of reported" should be "he reported" and last word "dfied" should be "defied".
15142	1	Second word "compition," should be "competition".
"	10	Delete comma after "conceived" and insert comma and "and" after "him".
"	25	"nanfield" should be "manifold".
"	26	"a vase" should be "a vast".
"	30	"patter" should be "pattern".
15143	4	"lacking" should be "looking".
"	5	"ethmcal" should be "ethical".
"	6	"principal" should be "principle".
15149	26	Delete last word "was".
"	27	Delete second word "with".
15150	12	"the production," should be "their production,".
15151	16	Insert "of" before "aggressive".
"	18	"producted" should be "produced" and "to these" should be "to the thesis".
"	20	"re-introducetion" should be "re-introduction".
"	21	Add "their" after last word "as".
15152	6-7	Delete "had a better knowledge of Hitler's real intentions and my client" as repetition.
"	9	"outbreat" should be "outbreak".
15153	2	"took part" should be "took no part".
"	18	Delete comma after "I.G."
"	19	Delete comma after "learned".
"	19-20	Delete "on the occasions of the few conferences that the general Vorstand," as repetition.

14507(-36-)

Transcript Page	Line(s)	PROPOSED CORRECTION
15155	9	"voluntarily" should be "voluntary".
15156	15	"industrialist" should be "industrialists,".
"	23	"individual" should be "individual";
"	24	Delete comma after last word "precedence".
"	29	First word "very" should be "every".
15157	10	"transcends" should be "transcends".
15158	18	"men problem" should be "main problem".
15159	3	"oews allegiance" should be "owes allegiance".
"	8	"reliable of punishment" should be "liable to punishment."
"	9	Insert footnote mark "2)" after "1946".
15159	23-24	Delete "to illustrate the fact that the sovereignty of the individual law" as repetition.
"	Footnote	Place "2). Cf. Court Transcript, German text, page 2778." as footnote at bottom of page.
15160	9	Change "0" at end of line to dash.
"	13	Place footnote mark "3)." at end of line after quotation marks.
"	14	Last word "more" should be "mere".
"	17	Insert dash after "which" and before "I quote".
"	Footnote	Place "3). Cf. Legal Opinion on the Criminal Liability of Private Individuals in Cases of the Infringement of International Law, by Dr. jur. Herbert Kraus, Professor of Law, Membre de l'Institut de Droit International (Member of the Institute of International Law)." as footnote at bottom of page.
15161	13	Change period to comma after "force" and continue sentence with "the Court".
15162	25	"in intervene," should be "to intervene,".
"	27	Delete comma after "that".
15164	17	"This percept" should be "This precept".

Transcript	Page	Line(s)	PROPOSED CORRECTION
15165		13	"so that foreign languages" should be "so that the need for foreign languages".
"		14	"present natural" should be "presents natural".
15167		5	"The butments" should be "the hitments".
15168		31	"all the other" should be "all the rest of".
15169		1	"specialists-world" should be "the specialist world".
15170		24-25	Change from "Salvarsane" in line 24 through "Dolantin," in line 25 to read "Salvarsane, Vitamine and Hormone preparations, furthermore Novalgin, Gardan and the substitute morphine preparation Dolantin."
15171		17	Last word "testimony" should be "testimonies,".
15172		2	"to unusual" should be "be unusual".
"		15	"quit" should be "quite".
15173		26	"Comparagel" should be "Comparable".
15175		10	Second word "with" should be "the".
15176		13	"but in increase" should be "but to increase."
15177		2	"used" should be "produced".
"		3	Delete second word "produced".
"		15-16	Delete "the protective effects of the vaccines manufactured by" as repetition.
"		30	Should read: "Also, the argument of the prosecution that there had been a".
15179		10	"elained" should be "aimed".
"		13	"Kidlick's" should be "Kudicke's".
15180		1	Place period after "Berlin" at end of line and begin new sentence with "By" in line 2.
"		3	"and Dr. Dennitz's" should be "and by Dr. Dennitz's".
15181		15	Insert "been" after last word "have".
"		16	"continuously disturbing" should be "continually distributing".

Transcript Page	Line(s)	PROPOSED CORRECTION
15181	21	"beruddled" should be "befuddled".
15182	23	"convicting" should be "convincing".
"	31	"Hygiene Institution" should be "Hygiene Institute".
15183	1	"Dr. Ding he had been" should be "Dr. Ding had been".
"	32	"demand" should be "demanded".
15184	14	Delete period after "camps" and continue sentence with next word "since".
"	21	"gangerine" should be "gangrene".
"	26	Change "vaccinations were likewise not" to read "vaccinations were to take place in the concentration camp. These vaccinations were likewise not".
15185	3	"gangerine." should be "gangrene."
"	3	"Dr. Demitz" should be "Dr. Demnitz".
"	15	Insert "the" after last word "was".
"	18	"two or three" should be "two or three".
15187	3	"any change" should be "any charge".
"	13	"When they" should be "When the".
"	16	"mine" should be "mice".
"	20	"enaniels." should be "animals.".
"	21	"beings and also included" should be "beings and it also included".
"	29	Last word "trial-" should be "trail-".
15188	3	"of new type" should be "of a new type".
"	6	"Minister of Interior" should be "Minister of the Interior".
"	14	"prepartation" should be "preparations".
"	27	Insert "connections" after "established".
15189	29	"addressed" should be "addressed".
15191	10	"from in in this matter." should be "from you in this matter."

Transcript	Page	Line(s)	PROPOSED CORRECTION
15192	22	"Dr. Weber, the personally" should be "Dr. Weber, who personally".	
15193	7	"Dr. Ding gave vasive" should be "Dr. Ding gave evasive".	
15194	7	"Dr. Ding has to be" should be "Dr. Ding had to be".	
"	27	Delete comma after "1947".	
15196	3	Delete comma after "off".	
"	9	Change period to comma after "cards" at end of line.	
"	14	"It is a common" should be "It was a common".	
"	28	"Two witness" should be "The witness".	
"	31	Delete comma after second word "in".	
15198	3	"offers any proof for illegal tests." should be "offers any proof of illegal tests."	
"	7	"witnesses when I mentioned" should be "witnesses whom I mentioned".	
"	28	"Dr. Ling" should be "Dr. Ding".	
15199	7	"vaccines on the" should be "vaccines through the".	
15200	7	"hisotires," should be "histories,"	
"	10	Insert "and" after last word "Plant".	
15201	17	"Vorstand on the whole." should be "Vorstand as a whole."	
"	31	"here to what I have" should be "here as I have".	
15203	16	"of ohly" should be "of other".	
"	19	Delete "and" after "questions".	
15204	2	"The Beyer's advertising" should be "Bayer's advertising".	
"	24	Delete comma after first word "(contri)butions".	
15205	11	"expert" should be "export".	

Transcript Page	Line(s)	PROPOSED CORRECTION
15209	16	"by expressina" should be "by expressing".
"	17	"to fact" should be "to face".
"	20	"memory of M.B." should be "memory of M.B6,".
15211	1	"production to be reduced" should be "production reduced".
"	6	"inexvertible" should be "inaivertible".
"	9	Delete "the" before "Rhone Poulenc" and change "for reason" to "because".
"	28	"I think, I know that an" should be "I think that an".
15212	9	Insert "and" after "1940,".
"	22	"contain on even" should be "contain or even".
15213	8	"it is possible" should be "is it possible".
"	10	"outcome was the" should be "outcome is the".
15214	2	"attained" should be "attains" and "had to give" should be "has to give".
"	12	"as state of" should be "as a state of".
"	13	"the Rhone Poulenc" should be "compelling Rhone Poulenc".
"	15	Place comma after "Laws,".
"	17	Place period after "Farben." Begin new sentence with "Even".
15215	1	"the best of his" should be "the best of his".
"	7	"agreement had been" should be "agreement has been".
"	14	"no such is made." should be "no such agreement is made."
"	28	Last word "determinate" should be "determine".
"	31	"deleying tactic," should be "delaying tactics,"
15217	30	Insert "the" before "Theraplix-agreement".
15219	8	"by Bayers" should be "by Beyer".

Transcript Page	Line(s)	PROPOSED CORRECTION
15219	12	"Faure Beaulieu" should be "Faure Beaulieu".
"	19	"probed" should be "proved".
"	28	Last word "and" should be "can".
15220	8	"revoked." should be "revoked."
"	9	"administrated" should be "administered".
"	20	"his pharmaceutical" should be "its pharmaceutical".
15221	28	"to Indictment" should be "the Indictment".
"	31	"more then welcomed" should be "more than welcomed".
15223	1	"had been exerted" should be "had been subjected".
"	26	First word "was" should be "were".
15224	5	"with management" should be "with their management".
"	8	"Control Counsel" should be "Control Council".
15224	12	"property plants" should be "property and plants".
"	22	"France at the present time" should be "France that time".
"	23	Place semi colon after first word "agreement".
"	24	"occupation statuses." should be "occupation status."
15225	4	"could bot" should be "could not".
"	6	"undres" should be "under".
"	7	Last word "this" should be "the".
"	11	Delete "economic".
"	26	"that this, after all" should be "that is, after all".
"	27	"only then the Bayer" should be "only then did the Bayer".
"	29	"inputed" should be "imputed".
15227	20	"discussion" should be "discussing".
15228	1	"of existence" should be "of its existence".

14507(-42-)

Transcript

Page	Line(s)	PROPOSED CORRECTION
15228	10	"management than," should be "management so that,"
"	11	"it was the chairman." should be "he was the chairman."
"	19	Delete "Mann was not the business manager." and continue sentence beginning in preceding line with "his position".
"	27	Change "in charge of" to read "director of the Sales Combine Bayer which supervised" and place period after "insecticides."
"	28	Delete "a department which was under Bayer."
"	32	Insert "and" before last word "the".
15229	1-2	Change lines 1 and 2 to read "chairmen of the Aufsichtsrat was Schlosser, a Vorstand member of Degussa."
"	6	Delete "had" after "Mann".
"	21	Delete "exhibit" and "it had".
"	22	Last word "are" should be "were".
"	24	"is well" should be "was well".
15230	19	Last word should be "associates".
15231	4	"their peacetime" should be "the peacetime".
"	6	"in Europe?" should be "as in Europe?"
"	12	Change last word "the" to "connection".
"	13	Change "fact of" to "with".
"	15	Delete "has" and change "come " to "came".
"	21	Insert "the" before "expert".
15232	1	Insert "The sales" before first word "increase".
"	9	Insert "surpassed" after "partly".
"	29	"possibly" should be "possible".
15233	11	"are easily" should be "is easily".
"	15-16	"irritanys" should be "irritants".
"	26	"suppose" should be "support".

Transcript Page	Line(s)	PROPOSED CORRECTION
15234	6	"were generally known in Germany." should be "was general in Germany."
"	7	Insert "who knew" after "persons".
"	30	"many in" should be "many with".
15235	28	"gers" should be "ears".
"	29	Insert "than" before "1000 kilometers" and delete "the" before "Auschwitz".
15236	7	Insert "and" after "I.G.".
"	8	Change "the three" to "these three".
15237	5	Change last word "oo" to "of".
"	27	"casal" should be "causal".
"	31	Delete "the" before "reference".
15238	13	"ever" should be "even".
15239	11	Delete "of" before "punishable".
"	18	Insert "a" after last word "is".
"	25	Delete period and place dash after "namely". Continue sentence with following words "on the".
15240	33	"reichshericht" should be "(Reichsgericht)".
15244	3	"the competition" should be "his competitors".
"	6	"material," should be "materials,".
15245	7	Change "these existing" to "those existing".
15246	23	Last word "press." should be "address."
"	25	"geing" should be "being".
15248	12	"haspeadly" should be "has repeatedly".
"	21	Insert "only" after last word "but".
"	22	"statements" should be "statesman's".
"	26	"direct" should be "indirect".
15249	1	Delete "is" before "thereby".

14507 (-44-)

Transcript

Page Line(s)

PROPOSED CORRECTION

Page	Line(s)	PROPOSED CORRECTION
15249	2	Insert "thereof" after "approval".
"	4	"In my closing" should be "In my Trial Brief".
"	19	Insert "under" before "the influence".
"	21	Last word "staesmen" should be "statesmen".
15251	1-2	"the indirect" should be "in an indirect".
"	2	"contact" should be "contrast".
"	6	"became," should be "because,".
"	10-11	"in a close contact" should be "in an even closer contact".
"	13	Delete "has" before "explained".
15252	9	Delete "I have".
15253	21	"Comptoirs" should be "Comptoir". Delete comma after "now".
"	27	Delete comma after "charges".
15254	19	Insert "those" after last word "as".
"	20	Delete second word, "the".
15255	28	Delete comma after first word "which".
"	30	"happening" should be "happenings".
"	31	Insert "by" after last word "and".
15257	23	"facts" should be "fates".
"	24	Insert "the" before "happiness". Also "other" should be "others".
"	26	Delete "his" before "guilt".
15258	7	"comgined" should be "combined".
15258	32	"realively" should be "relatively".
15259	27	"perpetuators os" should be "perpetuators of".
"	30	"mander" should be "manager".
15260	26	Delete "that" after "because".

14507 (-45-)

Transcript	Page	Line(s)	PROPOSED CORRECTION
15262		16	"If this fact" should be "This fact".
"		17	"constructions" should be "contentions".
"		24	Place period after "plan," and delete "which had been demonstrated."
"		25	Insert "has" before second word "not". Place comma after "evidence" and change following word "must" to "much".
"		29	Delete first word "what".
15263		7	"like my client," should be "of my client".
"		8	Delete comma after "himself".
"		9	Insert "the" before "world" and change "among" to "of".
15264		24	Delete comma after "that" and after "is".
15266		14	Insert "is" before "also".
"		15	Place period after "appointment."
15267		7	"clients" should be "client's".
"		8	"injured" should be "injure".
15268		27	"you bring" should be "during".
15271		5	Last word should be "arrest".
"		10	Place period after "them," and begin new sentence with "What he".
"		12	First word should be "gratitude".
"		32	Change period to comma after "Honors,".
15272		30	"I had" should be "I and".
15274		1	Delete comma after "together".
"		5	"of page 4" should be "on page 4".
"		25	Insert "persons living in" before first word "countries".
15275		12	Insert "has" after last word "evidence".

14507 (-46-)

Transcript Page	Line(s)	PROPOSED CORRECTION
15275	29	"Two Sparte" should be "Sparte Two".
15276	13	"the hads" should be "the hands".
"	28-30	Delete as repetition the sentence beginning in line 28 with "The second" and ending with "Tribunal." in line 30.
15277	1	Delete as repetition "were likewise independent Main Department".
"	31	Delete comma after "October" at end of line.
"	32	Insert "and" after "construction".
15278	15	"indepently" should be "independently".
15279	2	"employed with" should be "employed in".
"	16	"wouldconsistute" should be "would constitute".
"	20	Delete comma after "No.5". Place comma after "Flick".
"	26	"1947," should be "1907,".
"	27	Insert "apply." after "1929".
15285	30	Change "who had" to "who have".
15287	5	Delete comma after first word "(pro)ceeded".
15288	28	Insert dash after "epidemics" and before "not".
15290	31	Delete "But the evidence submitted by the".
15291	1	Delete "SS camp administration."
15292	17	"it any way" should be "in any way".
15293	21	"in self-administration" should be "the self-administration".
"	22	"March 1948," should be "March 1943,".
15294	9	Add "the" after last word "for".
15296	1	"already," should be "ready,".
"	24,21	"skillet" should be "skilled".
15299	16	"natural that that" should be "natural than that".

Transcript Page	Line(s)	PROPOSED CORRECTION
15302	2	Delete comma after "was" and delete "also" after "could".
"	17	Insert "were" after "tracks".
15305	12	Change comma to period after "Tribunal."
15308	3	Place comma after "prisoners," and delete "who,".
"	4	Insert "who" before "directed".
15310	2	Delete "in Camp IV" after "made". Add "of Camp IV" at end of line after "inmate".
"	3	Delete "Even at this early date".
15312	23	"say by" should be "can by".
15313	31	Place comma and delete "had" after second word "camps". Also place comma at end of line.
15314	6	Place colon after last word "started:".
15316	11	Place comma after "By this,".
15317	6	"heretofore" should be "therefore".
15318	29	"evaluation" should be "evaluating".
15321	2	"Court by" should be "Court of".
15323	2	Place semi-colon after "Carthage;"
15325	3	"clearege" should be "cleavage".
15330	15	"Zenslav" should be "Pan-Slav".
"	25	Insert "not" after first word "was".
15333	2	"read" should be "road".
15334	8	Delete quotation marks after "bitterly."
15335	23	Delete comma after "1932". "Politican" should be "Political".
15336	1	"years that" should be "years when".
"	6	"nature" should be "mature".
15338	17	Place comma after "case".

Transcript Page	Line(s)	PROPOSED CORRECTION
15342	11	Add "to" after last word "objections".
15343	17	"or any" should be "nor were any". Delete comma and "were" after "officials".
15344	11	"saus" should be "says".
15348	11	Insert "between" after "place".
15351	1	"to the Berlin" should be "with the Berlin".
15354	26	Second word "net" should be "not".
15357	22	Last word "of" should be "or".
15358	1	Insert "east" after second word "the".
"	7	"ara" should be "far".
"	11	Second word "noe" should be "none".
15362	17	"greated" should be "greater".
15367	21	Insert "was" after "entry".
"	29	"romally" should be "formally".
15368	14	Insert "(deferment questions)" after "persons".
15370	9	Delete "A" at end of line.
15372	6	Change "asat" to "at".
15374	22	"me" should be "my".
"	26	"non-criminat," should be "non-criminal,".
15375	20	Place semi-colon after last word "this".
15376	6	Place quotation marks after "duty".
15380	28	"did you" should be "did not".
15381	27	"consisted" should be "considered".
"	29	First word "Yet" should be "But".
15392	1	"sutation" should be "situation".
"	17	"Walkenau" should be "Falkenau".
15396	2	"that we were" should be "our being".

Transcript Page	Line(s)	PROPOSED CORRECTION
15397	1	"practically soon," should be "Soon,". Insert "practically" after "subjected".
"	4	"who were" should be "who are".
"	22	"right" should be "rightly".
"	32	"came" should be "went".
15400	5	First word "indictment" should be "indicted".
15401	9	Insert "it" after "I have".
"	29	Insert "them" after "utilize".
15404	34	"The marshalled" should be "They marshalled".
15408	3	"has actually been," should be "was actually seen,".
"	6	First word "scourage" should be "scourge".
"	7	"deturgents" should be "detergent".
"	17	"of war," should be "of water,".
"	18	"among others," should be "among other things,".
"	19	"overcome" should be "overcame".
"	20	"thirst or" should be "thirst for".
"	29	"maningmethods" should be "mining methods".
15409	3	Place comma after last word "Farben,".
15410	6	Add "but" after last word "last".
15411	26	Insert "this" after "perceived".
15412	26	"succeed" should be "succeeds".
15414	21	"factores" should be "factories".
"	31	"urges" should be "urged".
15415	15	Insert "this," after "was not".
15416	19	Delete "in" after "Dr. Polckmann,".
"	24	"building-st ne" should be "building stone".
15417	16	Place comma after "succeeded,".

14507(-50-)

Transcript		PROPOSED CORRECTION
Page	Line(s)	
15418	8	Delete "in the become so".
"	26	"messes" should be "masses".
"	29	Delete "at all".
15421	12	Delete "amun".
"	25	"it were" should be "there were".
"	33	"interrigence" should be "intelligence".
15422	29	"resulted" should be "resulting".
15426	7	Change comma to period after last word "standard."
"	8	First word "now" should be "Not". Change period to comma after "figures,".
"	20	Place comma after "43%".
15427	12	Insert "the" before "world 's".
15428	16-17	Insert letter line 16 and before line 17: "IG Farben is also reproached for its share in the sphere of the European chemical economy concerning the collection of material for peace negotiations carried out by the Reich Ministry of Economics, known by the name of 'New Order'. In this connection this world map and the corresponding individual charts show clearly to just what an extent the European countries were always Farben's outstanding field of interest and activity, always the object of normal and legal business considerations and dispositions. It was therefore quite natural that the Reich Ministry of Economics consulted IG Farben with respect to this matter since IG Farben had all kinds of data available and was in a position to give important advice.
15429	15	Delete last word "has".

Transcript	Page	Line(s)	PROPOSED CORRECTION
15429	17		First word "gar," should be "war,".
15430	6		Delete "stincy".
15431	11		"were 28, 51%." should be "was 28, 51%."
"	26		"pervept" should be "perceive".
15432	17		Place comma after "8%,".
15433	1		"Germany" should be "German".
"	25		Insert "to" after first word "Relating".
"	30, 31		"bearing." should be "standing".
15434	19		"had not" should be "had been".
"	21		"especially of" should be "especially by".
15435	11		Insert "that" before "having".
15436	16		Place comma after first word "blow,".
"	18		"allied," should be "ally,".
15437	9		"case" should be "cast".
15438	6		Delete comma after "of".
15439	3		"resing" should be "rising".
15440	15		Place comma after "surface,".
"	27		Insert "will" after "letters".

Transcript Page	Line(s)	PROPOSED CORRECTION
15444	1	Change first word "what" to "that".
15445	20	"robberly," should be "robbery."
"	28	"transcens" should be "transcends".
15446	6	"aggressive war the the" should be "aggressive war that the".
15448	11	"adocacy," should be "advocacy,".
15453	29	"geherall" should be "generally".
"	30	Insert "of crimes against peace, would make the concept" to follow the text after line 30.
15460	2	First word "reserved" should be "reserves".
15461	15-16	Insert after line 15 and before line 16: "that this means, when examined, is the belief".
15466	3	Place footnote mark "1" after "that:" at end of line.
"	Footnote	Place following footnote at bottom of page: 1. Brief of Fundamental Questions of Law, by Dr. Wahl, p. 42.
15467	4	Place footnote mark "1" after "wrote:".
"	Footnote	Place following footnote at bottom of page: 1. Prosecution Exhibit 1238.
15469	5	Place footnote mark "1" after "uses."
"	8	Place footnote mark "2" after "Poland."
"	16	Place footnote mark "3" after "Poland."
"	Footnotes	Place following footnotes at bottom of page: 1. Prosecution Exhibit 1967. 2. Prosecution Exhibit 1134. 3. Prosecution Exhibit 2120.
15470	7	Place footnote mark "1" after "Wola."
"	9	Place footnote mark "2" after "1939".
"	17	Delete quotation mark before "the Polish".

14507(53-)

Transcript

Page

Line(s)

PROPOSED CORRECTION

Transcript Page	Line(s)	PROPOSED CORRECTION
15470	32	Place footnote mark "3" after "plant?"
"	Footnotes	Place following footnotes at bottom of page: 1. Prosecution Exhibit 2003. 2. Prosecution Exhibit 1141. 3. Prosecution Exhibit 1141.
15471	4	Place footnote mark "1" after "plants."
"	7	Place quotation marks after last word "concern."
"	Footnote	Place following footnote at bottom of page: 1. Prosecution Exhibit 1629, p.14.
15472	5	Place footnote mark "1" after "conference."
"	7	Place footnote mark "2" after "mance."
"	11	Place footnote mark "3" after "leadership."
"	16	Place footnote mark "4" after "way."
"	20	Place footnote mark "5" after "dictate."
"	23	Place footnote mark "6" after "matter."
"	Footnotes	Place following footnotes at bottom of page: 1. Prosecution Exhibit 2195. 2. Transcript pages 12816, 13043, 13153. 3. Prosecution Exhibit 2193. 4. Prosecution Exhibit 2196. 5. Prosecution Exhibit 2194. 6. Prosecution Exhibit 2149.
15473	3	Place footnote mark "1" after "case:"
"	13	Place footnote mark "2" after "act."
"	22	Place footnote mark "3" after "plants,"
"	24	Place footnote mark "4" after "enterprises,"
"	26	Place footnote mark "5" after "submission,"
"	28	Place footnote mark "6" after "policies,".
"	Footnotes	Place following footnotes at bottom of page:

14507(-54-)

1. United States v. Oswald Pohl et al., p.8103.
2. Prosecution Exhibit 1235, and comment,
Preliminary Memorandum Brief, Part II, No.18.
3. Prosecution Exhibit 2119.
4. Prosecution Exhibit 1072.
5. Prosecution Exhibit 1241.
6. Prosecution Exhibit 1859, 1148.

15474 4 Place footnote mark "1" after "stated:".

" 26 Place footnote mark "2" after "Europe."
" Footnotes Place following footnotes at bottom of page:
1. Prosecution Exhibit 1982.
2. Prosecution Exhibit 2115.

15475 2 Place footnote mark "1" after "full."
" 8 Place footnote mark "2" after "ruthlessly."
" 16 Place footnote mark "3" after "exclusivity."
" 23 Place comma after "itself."
" 26 Place footnote mark "4" after "Germans."
" 29 Insert "the" before "economic".
" Footnotes Place following footnotes at bottom of page:
1. Prosecution Exhibit 1241, p. 5.
2. Prosecution Exhibit 1175.
3. Prosecution Exhibit 1186.
4. Transcript pages 13046, 13047.

15477 5 "pennacle," should be "pinnacle."
15478 2 Place footnote mark "1" after "labor;"
" 42 "uded" should be "used" and place footnote
mark "2" after "replied:"
" Footnotes Place following footnotes at bottom of page:
1. Prosecution Exhibit 1964.
2. Transcript page 8471.

15479 8 Place footnote mark "1" after "Wehrmacht."
" 19 Place footnote mark "2" after "follows:"
" 32 Place footnote mark "3" after "follows:"

Transcript Page	Line(s)	PROPOSED CORRECTION
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15479	Footnotes	Place following footnotes at bottom of page: 1. Prosecution Exhibit 473. 2. Prosecution Exhibit 2199. 3. Prosecution Exhibit 477.
15480	2-7	Lines 2 - 7 should not be indented. Are not part of the quotation. Should have some spacing as regular text of transcript.
"	18	Insert "1. Farben Gas for Mass Extermination." after MR. MINSKOFF: and begin new paragraph with following words: "In our brief, . . ."
"	22	Place footnote mark "1" after "doubt:"
"	Footnote	Place following footnote at bottom of page: 1. Trial Brief, Part IV, pp. 76-91.
"	6-7	Insert the following as heading after line 6 and before line 7: "2. Criminal Medical Experiments with Farben Products."
"	15-16	Insert the following as heading after line 16 and before line 17: "3. I.G. Auschwitz".
"	24	Place footnote mark "1" after "world:"
"	Footnote	Place following footnote at bottom of page: 1. Prosecution Exhibit 1497.
15482	5	Place footnote mark "1" after "Auschwitz."
"	15	Change "airms." to "aims." and place footnote mark "2" after same word.
"	24	Place footnote mark "3" after "working."
"	27	Place footnote mark "4" after "bonus."
"	30	Place footnote mark "5" after "sunstroke."
"	33	Place footnote mark "6" after "time."
"	Footnotes	Place following footnotes at bottom of page: 1. Prosecution's Trial Brief, Part IV, pp.6-75. 2. Prosecution's Trial Brief, Part IV, pp.28-44. 3. Transcript page 11416 4. Prosecution's Trial Brief, Part IV, p.72. 5. Prosecution's Trial Brief, Part IV,pp.28-52. 6. Prosecution Exhibit 1993.

15483	4	Place footnote mark "1" after "Birkenau." and footnote mark "2" after "purpose."
"	5	Place footnote mark "3" after "Farben."
"	7	Place footnote mark "4" after "tools."
"	30	"reached" should be "reacted".
"	Footnotes	Place following footnotes at bottom of page: <ol style="list-style-type: none"> 1. Prosecution's Trial Brief, Part IV, pp. 45-52. 2. Prosecution's Trial Brief, Part IV, pp. 76-91. 3. Prosecution Exhibit 1517. 4. Prosecution Exhibit 1484, 1829.
15489	24	Delete "have" before "raised".
15494	38-39	Place footnote mark "1" after "Reichsgericht".
"	Footnote	Place following footnote at bottom of page: <ol style="list-style-type: none"> 1. Reichsgericht in Criminal Cases. Official Report, Vol. 33, p. 261 et seq. (1900).
15495	32	Place footnote mark "1" after "therein." and place footnote mark "2" after "Bavaria".
"	Footnotes	Place following footnotes at bottom of page: <ol style="list-style-type: none"> 1. Cited by Bavarian Supreme Court in Criminal Cases, Official Report (Sammlung von Entscheidungen des Bayerischen Obersten Landgerichtes in Strafsachen), Vol. 33, p. 37. 2. Cited above, footnote 1.
15496	1	Delete as repetition "in the world of commerce, But it is not one of the purposes".
"	19	"hand" should be "hang".
15497	5	Place footnote mark "1" after "world,".
"	10	Place footnote mark "2" after "plant."
"	12	Place footnote mark "3" after "Leverkusen."
"	20	Place footnote mark "4" after "firm."

Transcript Line(s)
Page

PROPOSED CORRECTION

Transcript Line(s)	Page	PROPOSED CORRECTION
15497	29	Place footnote mark "5" after "plant."
"	Footnotes	Place following footnotes at bottom of page: 1. Transcript page 10088. 2. Transcript page 10088. 3. Transcript page 10087. 4. Prosecution Exhibit 170. 5. Prosecution Exhibit 2065.
15498	2	Place footnote mark "1" after "words."
"	4	Place footnote mark "2" after "authorities."
"	6	Add "be" after last word "would".
"	Footnotes	Place following footnotes at bottom of page: 1. Prosecution Exhibit 1613. 2. Prosecution Exhibit 546.
15501	7	Insert "(Editor's note: Kuehne was only a member. See p. 15509, lines 3-9)," after "Chairman".
15505	3	"Swannet" should be "Wannet".
15506	1	"Kuehne hard" should be "Kuehne heard".
15508	3	Second word "that" should be "what".

Transcript Page	Line(s)	PROPOSED CORRECTION
15510	12	"sinc against" should be "sin against":
"	19	Place quotation marks before the first word "Whoever".
"	22	Place quotation marks before the first word "He".
15511	3	Place quotation marks after last word "example."
"	20	"Eight Assembly" should be "Eighth Assembly".
15512	15-16	Insert the following after line 15 and before line 16: "the past in this courtroom by these distinguished jurists, and,".
15513	6	Place quotation marks before the first word "Now".
"	13	Insert "of any human being was, and must be treated as, an offense" after "killing".
"	19	Place quotation marks after last word "men."
15514	16	Place quotation marks before first word "The".
15516	15	"disceredel" should be "discarded".
15517	6	Place period after "questions."
15519	2	"a way" should be "a war".
"	12	Place quotation marks before "window".
15520	17	Place quotation marks before "unobtrusively".
15524	17	First word "were" should be "where".
15530		Footnote Footnote 1. "EE Brief" should be "PE Brief".
15531	4	Place footnote mark "1" after "camps."
"	7	Place footnote mark "2" after "Farben," and place footnote mark "3" after "Ambros."
"	9	Place footnote mark "4" after "Gendorf."
"	11	Place footnote mark "5" after "profitable."
"	13	Place footnote mark "6" after "that;"
"	19	Place footnote mark "7" after "that:"

Transcript

Page	Line(s)	PROPOSED CORRECTION
15531	24	Place footnote mark "8" after "that:"
		Footnotes Place following footnotes at bottom of page:
		1. PE 2130
		2. Tr. p. 8114
		3. Tr. p. 8139 and PE 1427
		4. Tr. p. 8122
		5. PE 1431
		6. PE 1503
		7. PE 1509
		8. PE 1511
15532	3	Place footnote mark "1" after "was:"
"	13	Place footnote mark "2" after "example:"
		Footnotes Place following footnotes at bottom of page:
		1. PE 1526
		2. PE 1845
15533	1	"ruly" should be "truly".
"	4	Place footnote mark "1" after "writes:"
		Footnote Place following footnote at bottom of page:
		1. <u>The Nuremberg Trial: Landmark in Law</u> , by Henry L. Stimson, in Foreign Affairs (January 1947), p. 184.
15534	27	Last word "warneary" should be "war weary".
15537	27	Place quotation marks after "themselves."
"	32	Insert "do not" before second word "have" and place comma after "statement,".
15538	1	Change first word "already" to "is". Delete comma after "generally" and change "that it namely" to "which".
"	11	"cites" should be "cite".
15539	22-23	Delete "to meet its main purpose was to enable the air force, Luftwaffe," as repetition.
"	23	"its requirements" should be "the requirements".
15540	1	"quoted is incorrect." should read "quote-- this is incorrect."
"	2	Insert "final plea of the" before last word "prosecution".
"	3	Place comma after "(prosecution." and change "brings" to "there is".

Transcript

Page	Line(s)	PROPOSED CORRECTION
15540	29	Change semi-colon to comma after "lies,".
15541	24	Delete parenthesis after "immediately" and place comma after last word "examination".
"	28	Delete "as" before "brought".
15542	27	Change "pan of the army and Farben had existed," to read "plan had existed between the army and Farben,".
15543	3-4	Change "of the prosecution contends that" to read "of the final plea of the prosecution, the prosecution contends that".
15545	20	Delete "in" before "Poland,".
15546	20	Insert "not" after "night".
15547	1	Delete comma after first word "(fur)loughs" and place comma after "foreigners".
"	18	Place comma after "Dr. Pistor".
15549	10	"in which" should be "of".
"	11	"referred" should be "referring". Place comma after "points".
"	12	"did that" should be "acted so".
"	20	Delete comma after "per cent".
15550	23	"Ambros." should be "Ambros named."
15551	18	Insert "same" before "time".
15552	1	"basis for this" should be "basis for the".
"	2	Delete comma after "(respon)sibility".
"	17-18	"preciously" should be "previously".
15553	13	First word "so" should be "to".
15557	14	Delete last word "made".
15558	13	Insert "the" before "factual".
15559	24	Delete last word "the".
"	26	Delete "the" before "international".

14507(-61-)

Transcript	Page	Line(s)	PROPOSED CORRECTION
15561	8		First word "proceeding" should be "preceeing".
"	20		"murdered" should be "murderer".
"	24		Second word "or" should be "of".
15562	1		Delete "the" before "sovereignty".
"	12		"murdered" should be "murderer".
"	25		Insert "of" after "prohibition".
15563	6		"same what I" should be "same as I".
"	14		Insert "on" before first word "the".
"	29		"small" should be "smaller".
15564	2		"misses" should be "missed".
"	4		"did not yet" should be "has not yet".
"	20		First word "becomes" should be "became".
15566	13		"pleadings" should be "pleading".
15568	17		Insert "means." after "aims".
15570	8		Delete quotation marks after "doubt."
15572	6		First word "There" should be "Their".
"	30		"lightling" should be "lightning".
"	31		"agsence" should be "absence".
15573	14		"counter's" should be "counter" and "german" should be "German".
"	23		"have existed" should be "had existed".
15574	2		Delete comma after "Haeffliger".
15575	20		Delete comma after "men".
15576	2-3		Delete "in our mind,". Change period to comma after "success" and complete sentence with "in our view."
15577	1		Insert "BY Dr. SIEMERS:" before first line.
15577	27		Change comma to semi-colon after "foundation".
15578	5		"of making" should be "or making".

Transcript Page	Line(s)	PROPOSED CORRECTION
15580	16	"process" should be "processes".
"	18	Last word "tenditions" should be "tendentious".
15581	21	Place comma after first word "products".
15582	11	"are waging" should be "have waged".
15584	19	First word "there" should be "they".
"	24	"other" should be "remaining".
15585	9	Place comma after "recognized".
"	14	"shole" should be "whole".
"	15	"facutla" should be "factual".
"	19	Insert "his" before "personal".
"	22-23	Change "more of the legal and therefore, too the moral primate of law of the own state" to read "more with regard to the legal, and therefore also the moral, primate of law of the individual state".
15586	20	Delete "a" before "contrary".
"	21	First word "publish" should be "punish".
"	27	Change "who perforce had to play" to "who did not perforce have to play".
15587	21	"is legal" should be "in legal".
"	27	"escepeable" should be "inescepeable".
15588	13	Insert "the" before "Flick".
15589	11	Place comma after "refer".
"	18	"the connection" should be "this connection".
"	21	Add "can" after last word "believe".
"	24	"and aggressive" should be "any aggressive".
15591	3	Place comma after "testified,".
"	10	"(Heimbueckegesetz)" should be "(Heimtueckegesetz)".
15595	30	"has been" should be "had been".

14507 (-53-)

Transcript Page	Line(s)	PROPOSED CORRECTION
15596	21	"show" should be "shows".
15597	21	"trail" should be "trial".
"	24	Place comma after "crimes" and change next word "being" to "which is".
15599	14	"thereafter" should be "hereafter".
15601	7	"Germany" should be "German".
"	12	"feature" should be "future".
"	15	"though" should be "thought".
"	21	"are being" should be "were being".
15602	10	"confide in those working" should be "trust those working".
"	12	"that it is" should be "that it was".
"	19	"I came" should be "I had to go".
"	25	"had made him" should be "had made me see".
15605	12	"sense is" should be "sense in".
"	18	Insert "the" before "technical".
15606	9	Delete comma after "doer".
"	12	"from my my" should be "from me my".
15607	21	Delete "own" before "essays".
"	31	Insert "of" before last word "all".
15608	7	Insert "the" before "French".
15609	13	Insert "and" before "Mr. Churchill's".
15610	11	"Frag we," should be "Prague,".
"	12	Insert "being" before "edited".
15611	15	Insert "one" after first word "Only".
15612	29	Insert "that they" before "should also".
15613	10	"produce" should be "product".
"	20	"profession are," should be "profession is,".

Transcript Page	Line(s)	PROPOSED CORRECTION
15613	22	Last word "thers." should be "others."
"	23	"pround" should be "proud".
"	29	Delete comma after "counsel" and change last word "theres" to "these".
15614	4	"hold" should be "holds".
15615	22	Delete "of" before "the deeper".
15616	19	"1936" should be "1938".
15617	10	Insert "to" before "work".
"	22	Change line 22 to read "deceived people and shielded from them his aims."
"	30	Place quotation marks after first word "avail."
15618	1	Delete "this way".
"	3	"which" should be "who".
"	12	"pictures" should be "pictured".
"	14, 17	"Bræungesheim" should be "Preungesheim".
15619	9	Place comma after "well-known".
"	10	Place quotation marks after "defeatism?"
15620	12	Place comma after first word "stood".
"	25	Delete "in" after "entirely" and insert "not" after "decision".
15621	4	Change period to comma after "affidavit," and continue sentence with "this throws".
"	15	Delete "to" before "concur".
"	18	"not as a" should be "nor as a".
"	25	"any man" should be "any men".
15622	20	"Cue Bono?" should be "Cui Bono?"
"	25	Insert "when" before "Ivy Lee,".
"	28	Insert "it" before "started".
15623	10	"conqui or" should be "conqueror".

14507 (-55-)

Transcript Page	Line(s)	PROPOSED CORRECTION
15623	12	"conquired:" should be "conquered:"
15627	25, 27	"succumber" should be "succumbed".
15628	27	"the Army" should be "Defense".
15629	16	Change "in improvement" to "an improvement".
15630	22	"qords" should be "words".
15632	24	Insert "that" after "know" and change "being that of" to "as".
"	25	Delete comma after "Works".
"	29	"to make" should be "to erase".
"	30	First word "lines" should be "line". Delete "scientific" and add "the" after last word "and".
15633	2	Insert "in" after "clarify".
"	3	"Concentration Camp" should read "The concentration Camp".
"	4	Insert "different" before "spheres,"
15633	14	"lins" should be "line". Change period to comma after "spheres" at end of line and continue sentence with "of course" in line 15.
"	22	"have no idea," should be "had no idea,".
"	23	Insert "they contributed" after second word "faith".
15634	17	Delete comma after first word "done" and also quotation marks before next word "on". Place quotation marks after "part,".
15635	2-3	Change lines 2 and 3 to read "Obviously I, as the men supervising, just as critical visitors, did not know all that was happening either, because nobody told me."
"	5	"engineer," should be "engineers,"
"	23	Insert "what" after "but".
"	29	"persecuter," should be "persecutee,".
15636	3	Delete "I.G." after "any" and add "of I.G." after "member" at end of line.

14507 (-ss-)

Transcript Page	Line(s)	PROPOSED CORRECTION
15636	10	Last word "because" should be "became".
"	14	Add "we" after last word "end".
15637	6	"radicalizstion" should be "radicalism".
"	28	Delete "and" before "I gave".
"	31	"for thanking" should be "of thanking".
15638	6	Delete "for him" after second word "then".

Muernberg, 26 June 1948
Date

By _____
D.A. SPRECHER
For TELFORD TAYLOR,
Brigadier General,
USA, Chief of Counsel

By _____
Dr. RUDOLF DIX
For DEFENSE COUNSEL, Case VI.

14507 (-67-)

Official Transcript of the American Military
Tribunal No. VI in the Matter of the United
States of America against Carl Krauch, et al,
Defendants, sitting in Nurnberg, Germany on
1 June 1948, Justice Shako Presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: You may report, Mr. Marshal.

THE MARSHAL: May it please Your Honors, all defendants are
present in the court.

THE PRESIDENT: Gentlemen, the Tribunal has previously announced
that we are holding today's session for the sole purpose of closing
the evidence in this case, on a number of outstanding matters which
we have tried to keep in mind, to bring to a conclusion today, I hope
that we have not over-looked anything of any substantial interest or
value.

The first matter that we have before us is that of the proceedings
before the Commissioners, Mr. Mulroy and Judge Crawford. The Tribunal
has, dated as of today, a 5th and final report from Mr. Mulroy, in which
he recites the names of twelve witnesses who were examined before him,
giving the dates of the examinations, the names of the witnesses, and
the pages of the official transcript in which the testimony of these
witnesses is recorded. His report further lists six exhibits that were
introduced in evidence in the course of those examinations.

The Tribunal now deposits with the Secretary General, for the
archives, this report made today by Mr. Mulroy, and the proceedings as
entered and recorded in the official transcript of the Tribunal are now
formally and officially made a part of the record in this case, and Mr.
Mulroy is relieved and discharged from further responsibilities as a
Commissioner of the Tribunal.

14508

Exhibit 15638 filed before this Tribunal
and defense to correct the transcript.
Thurs. Case 6 - from Page 14518
14507 (1-67)

We also have, as of today, a report from Judge Crawford, likewise giving the names of 34 Defense witnesses and one Prosecution witness, that was examined before him, the dates of those examinations, and the pages of the official transcript in which the testimony of those witnesses has been entered on the proceedings of the Tribunal.

His report further discloses that 37 exhibits were introduced in evidence in the course of those examinations. The Tribunal now recognizes, as a part of the official proceedings of this Tribunal, the evidence and the exhibits that were offered before Judge Crawford in the course of those examinations.

We now hand to the Secretary General for deposit in the archives the certificate of Judge Crawford, and his responsibility as a Commissioner of this Tribunal is now recognized as having been fully discharged by the Tribunal.

May I say that I received in the mail a day or so ago what purports to be an affidavit of Dr. Pistor, accompanied by a short letter. The affidavit is in German. I mention the matter because it is possible that this may be an omitted affidavit which some of counsel for the Defense may have had marked as an Exhibit in anticipation of its receipt. Otherwise, I do not know how this document came into my hands. It came by registered mail, and before we finally recess for the day, I should be glad to be advised if this is the property of any of counsel for the Defense. Otherwise I shall just file it in our correspondence.

DR. SCHUBERT (Counsel for the defendant Buergin): Mr. President, Dr. Pistor executed two affidavits for me. This affidavit before you now was submitted to the Tribunal by Dr. Pistor without any of my instigation or suggestion. It is not in my document books.

THE PRESIDENT: Thank you, counsel.

Is Dr. Pribilla here this morning?

DR. EISENBLAETTER (Counsel for the Defendant Lautenschlaeger):
Mr. President, Dr. Pribilla has asked me to present his excuses. He has

been in the hospital in Furth for the past week. He would have liked to appear this morning to attend this important session himself.

THE PRESIDENT: May I inquire of you, counsel, as his representative here today, about the affidavits of Dr. Weber that were to have been taken in Switzerland since we were last in session? Are there any of those affidavits to be offered in evidence as omitted matters?

DR. EISENBLAETTER: No new exhibits are to be submitted, Mr. President. We concluded our presentation of evidence when we presented the Weber affidavit.

THE PRESIDENT: Very well then. That matter is closed, and the Tribunal will discharge Judge Crawford, who was officially designated to supervise the examination of the witness, from any further responsibility in the matter.

DR. EISENBLAETTER: The affiant was available, Mr. President, and the Prosecution did not avail themselves of the possibility of cross-examining this affiant.

THE PRESIDENT: We understand the situation in that regard. There was another showing made in lieu of that. We were only concerned in affording you, counsel, an opportunity to bring forth the affidavits that you may have obtained, if you desired to do so. We are not concerned with it further, and the matter is now closed.

May I inquire, Mr. Prosecution, from you as to whether or not the — Pardon me; did you have something to say, Dr. Dix?

DR. RUDOLF DIX: I want to say something about the point raised in connection with Dr. Pribilla. Your honors have just heard that our colleague, Pribilla, is unfortunately confined in the hospital. The Tribunal will receive a schedule from us tomorrow about the sequence in which we are going to hold our final pleas. In this schedule we have listed the final plea of our colleague Pribilla in the normal sequence, which would necessitate his appearance this week. If Dr. Pribilla, by reason of his physical condition, should not be able to

hold his final plea this week, we should like to request that the subsequent final pleas be moved up and that he be allowed to give his final plea next week, when we hope that he will be recovered.

THE PRESIDENT: Very well.

DR. DIX: But since we did not know yet what would be his physical condition, we did not want to make the change at this time.

I have a few minor procedural questions, but I shall wait until you indicate the time to be proper.

THE PRESIDENT: May I say, Dr. Dix, that it is entirely agreeable with the Tribunal to rearrange your schedule of the presentation of the final arguments of counsel for the defendants in order to take care of the situation of Dr. Pribilla, if his health makes it impossible for him to be here at the time originally scheduled.

Now, Mr. Prosecutor, we recall that interrogatories were submitted by counsel for the Defense in connection with one of your witnesses who was in Poland, whose name I do not at the moment recall. At the time that reference was made, the Tribunal ordered that if those interrogatories were not answered by the closing date, we would entertain a motion to strike the exhibit upon which they were predicated. May I inquire now what information you have, if any, with reference to those interrogatories?

MR. MINSKOFF: The Prosecution has no new information concerning the interrogatories.

THE PRESIDENT: As far as you are advised, the answers have not come through?

MR. MINSKOFF: That's right.

THE PRESIDENT: We will entertain a motion at this time -- if someone will identify the exhibit, to which these interrogatories applied -- we will entertain a motion to strike that exhibit from the evidence in this case.

DR. SEIDL: (Counsel for the defendant Duerrfeld): Mr. President,

it is an affidavit of a certain Guenther Lotzmann, which the Prosecution presented in Book 74. The document is NI 10166, and the Prosecution presented it as their Exhibit No. 1450.

THE PRESIDENT: Very well. The Tribunal now rules that Prosecution Exhibit 1450, being its Document NI 10166, found in the Prosecution's Document Book 74, is now stricken from the evidence in this case, and will not be considered by the Tribunal.

Has any further progress been made by counsel for the Prosecution and the Defense with respect to the matter of corrections on the record?

DR. RUDOLF DIX: (For the Defense): Mr. President, the Tribunal has ruled that the closing briefs of both Prosecution and Defense be submitted tomorrow, the 2nd of June.

The Defense considers it very important that this submission be done simultaneously. It must be assured that if they, the Defense, submit their closing briefs tomorrow, the Prosecution as well will submit their closing brief. According to information which I received during my absence about conferences which took place in chambers, we are not quite sure whether the Prosecution is able to promise that they will submit their closing brief tomorrow. The Defense is not prepared to submit their closing briefs before the Prosecution; on the basis of rulings previously made, we consider that we are in our right.

The reasons why we want to insist on this right are compulsory reasons, and I should therefore be grateful if the Prosecution could today commit themselves as to whether they will definitely be able to submit their closing briefs tomorrow. If they cannot do that, then I do not want to tax the patience of the court in discussing the possible consequences; I should like to be permitted to give you this explanation in chambers. But before I ask that such a conference in chambers be held, I think it would be best for the Prosecution to make a statement.

1 June 48-~~14-57~~-1-6-Stewart (Katz)
Court 6, Case 6

MR. DUBOIS: The briefs to be submitted by the Prosecution will be in the hands of the Tribunal and deposited with the Secretary General sometime tomorrow.

DR. DIX: Thank you very much. That has cleared up that matter for the Defense.

(Dr. Rudolph Dix):

I have a second request, which we could really discuss in chambers, but it is very urgent; for unless the Tribunal rules very soon about it, it cannot be carried out, for technical reasons. Your Honors, we are of the opinion that our so-called assistants, who are really our colleagues and our associates, who hold equal rank with us, and who can properly claim to be coordinated with us as Defense Counsel, should be permitted to attend the reading of the final pleas, not in the gallery, dependent upon the availability of tickets, but on the floor of the courtroom. I believe that this is technically possible if there is the will.

We furthermore request that the secretaries who have worked faithfully with us, be permitted to be present during the pleas. Unfortunately there are not many seats assigned to us in the spectator's gallery; and the significance of this trial, of course, occasions many Germans who are interested in this trial to want to hear the final pleas. Therefore, we want to request your Honors to rule that the secretaries be admitted, perhaps upstairs in the gallery, or wherever you see fit. I do not believe that any security reasons prevent compliance with this request.

I ask your Honors' pardon if I have burdened the record with this request, but unless this matter is settled now, it cannot be carried out by tomorrow, for technical reasons.

In summarizing, I say that it is our urgent request to have the assistants present in the spectators' gallery, either upstairs or downstairs.

THE PRESIDENT: Dr. Dix, the Tribunal has never concerned itself with the matter of the allotment of space in the galleries. That is handled, ordinarily, by the administrative staff. I am not advised as to what allotment of space have been made or for what

purposes they have been made. I don't think the members of the Tribunal, any of them, know anything about that.

With respect to access on the floor of the courtroom, for your assistants, the only problem that concerns us is one of capacity and facilities. I think perhaps that that is a matter that at the first recess we had better discuss with you and the other members of counsel who are interested in it, and with the Marshal and administrative staff, and see what we can work out along that line.

The Tribunal recognizes the interests of your assistants and your secretaries in this case, but we are hardly in a position to speak about it until we obtain a little more information, and we shall discuss that matter with you informally, if that is agreeable to you.

DR. DIX: May I ask you whether this will be in the first recess this morning, or when did you desire to talk about it?

THE PRESIDENT: If I knew just how soon we would have a recess, I could answer you, but I think we can discuss it at our first recess, if you will come in.

DR. DIX: Mr. President, I said that I asked your pardon for burdening the record with this request, but you are our last recourse. If you do not help us, then we believe we will have serious difficulties. Therefore we permitted ourselves to ask for your assistance in this matter.

THE PRESIDENT: It is entirely agreeable, and if you will come in at the first recess we have, we will discuss it with you.

Now I mentioned a moment ago -- and I think Dr. Dix perhaps misunderstood me -- the matter of the corrections of the official record. Heretofore, you gentlemen have been able to stipulate from time to time appropriate corrections of the transcript. Have you anything to report along that line at this time, Mr. Sprecher?

MR. SPRECHER: Yes, Mr. President, I think Dr. Dix and I have signed together two joint motions since we last officially mentioned the matter on the record. The first...

THE PRESIDENT: May I say now, in the interests of clarity, if you refer to those, will you give us the date of your stipulation and the pages of the transcript that are embraced in each stipulation, along with whatever other remarks you wish to make, Mr. Sprecher, and then we will be in a position to dispose of it at this time.

MR. SPRECHER: Thank you. The second joint motion of the Prosecution and the Defense to correct the official English transcript is dated the 10th of May 1948. It runs through page 8696 of the transcript. Copies have already been filed with your Honors and with the Secretary General. I can identify it no further.

THE PRESIDENT: That is sufficient. Do you have another since that?

MR. SPRECHER: Yes, and the third joint motion of the Prosecution and Defense, in the same connection, is dated the 27th of May. It runs through page 10404 of the English transcript. Copies have likewise been served upon your Honors and the Secretary General.

THE PRESIDENT: The Tribunal now approves the stipulations entered into by counsel for the Prosecution and the Defense as follows: The stipulation of 10 May, covering the paging of the transcript to 8696; and the stipulation of 27 May, covering the transcript to page 10404; and orders that these corrections be officially made upon the record of the proceedings.

May I say, of course, Mr. Prosecutor, we realize that you perhaps may have subsequent stipulations to submit. If you will prepare those stipulations as you reach the matters, and present them to the Tribunal, we shall in the future take care of the approval of the stipulations and the ordering of the corrections by a written order deposited in the office of the Secretary General, which will not make it necessary

to interrupt the course of the arguments or any of the subsequent proceedings for the purpose of making such corrections.

MR. SPRECHER: Mr. President, I just wanted to say that if any of the Defense Counsel have corrections which run back into some of the pages already covered, we, of course, are glad to talk to them about that also. Because of the tremendous amount of typing that is going on now, the fourth joint motion is being held up, but the record is already corrected, generally speaking, up to about 13,000, and the actual corrections should be finished by the time the closing statements are completed, insofar as the transcript up to the beginning of the closing statements is concerned. However, the typing will be another matter, and will take us a little while after that.

THE PRESIDENT: The Tribunal recognizes Dr. Nelte.

DR. NELTE (Counsel for the Defendant Dr. Hoerlein): Your Honors, in regard to the last question just touched upon by Mr. Sprecher, I have to state on behalf of Hoerlein and on behalf of the other cases connected with the medical experiments, that in one important point no stipulation could be achieved between Prosecution and Defense.

Many of the documents dealing with medical experiments or tests, as you know, contain the German word "Versuch." In the presentation of the evidence, it has become clear that this word can have several meanings in the German language, and, that these various meanings are expressed by different words in the English language. The Tribunal, the Prosecution, and the Defense all know, on the basis of the evidence, when the word "Versuch" is to be translated by "test" and when it is to be translated by "experiment." How is the translator of the document books to know which word he is to use? I know in this Document Book VI, for instance, the word "experiment" is constantly used, which in the opinion of the medical experts should have been translated as "test."

Your Honors, I want to believe it was a coincidence. Unfortunately, no agreement could be reached with the prosecution on this point, and the prosecution suggested that wherever the word "Versuch" appears, the English translation should read "experiment or test." Your Honors, you will understand that that would create the wrong impression in the English documents, because the word "Versuch" can have only either one or the other meaning in each case. It is not a question only of translation, but a question of evaluation, and therefore I ask you to rule that the translation of the word "Versuch" in the documents with which we are here concerned for the official English record should properly be translated as "test".

The question is of great significance because the English-speaking public who read these documents will utilize them for propaganda purposes. The difference between test and experiment is equivalent in the eyes of the public to admissible and illegal experiments or tests, and if the documents which are submitted to you and which you use to make your findings constantly contain only the word "experiment," then you, like the general public, might reach erroneous conclusions. For this reason I ask that you comply with my request and rule that in all cases of documents translated from the German, wherever the word "Versuch" appears in the German, the word "test" be used in the English.

MR. SPRECHER: Mr. President, firstly, we feel that Dr. Nelte has been apprised of this problem for a sufficiently long time so that there is really no excuse for his not filing a proper written motion according to the rules.

Secondly, Dr. Nelte objected to the prosecution's offer of Prosecution Exhibit 2223, which is the Farben dictionary, compiled by Farben, which shows that "Versuch" is translated according to three words, the first of which is "experiment", the second of which is "test", and the third of which is "trial". Now, beyond that, some of Dr. Nelte's own witnesses have indicated that the context of certain work done in either experimenting or testing or in trial will affect what meaning actually should be attached to the word "Versuch", and nothing should be clearer, it seems to us, before this Tribunal at this time than the fact that such a general motion as this could serve no purpose except to cover up the truth.

THE PRESIDENT: Well, gentlemen, we are well aware of the difference in views that have from time to time been expressed with respect to the proper and appropriate translation of this German word. We understand very clearly the views that you gentlemen entertain on that subject. We also know that it is impossible for you to reconcile your differences with a binding stipulation that we could accept as solving the problem.

It will be the responsibility of the Tribunal, in the consideration of the evidence of this case, to take into account the controversy that exists between you gentlemen with respect to the proper translation of this word. In doing that, we shall bear in mind the evidence that we have heard relating to that subject and shall feel free to avail ourselves of any general information in the way of dictionaries or translations. I may say to you that it will be the responsibility of the Tribunal to resolve this controversy as we would any other controversy of fact with respect to which you gentlemen have not been able to reach an agreement.

It would serve no good purpose for prolonging this discussion or the consideration of this problem. It's been fully covered, and we understand very clearly your respective views, and they will be taken into consideration if, as, and when we are called upon to determine the proper interpretation or translation of the word.

DR. NELTE: Mr. President, I have one small matter. As defense counsel of Professor Hoerlein, I have seen the medical charts which were an appendix to the interrogation of Dr. Tondos, Exhibit Hoerlein 143. The Prosecution and the Defense have submitted a stipulation to the Tribunal which represents the contents of these medical charts. You have approved this stipulation, and I shall now submit that stipulation instead of the medical charts to Your Honors as Exhibit Hoerlein No. 143.

THE PRESIDENT: We do recall the stipulation that you have mentioned, and I think we wrote a specific order on that subject and deposited it in the office of the Secretary-General. If you will be good enough to supply the Secretary-General's office with the original of the stipulation, it will comply with that order.

DR. NELTE: Mr. President, the original is in the hands of the Tribunal. I submitted it together with my motion.

THE PRESIDENT: I think I do recall that, and I think it has already been forwarded to archives for the record, but we will verify that and make sure that the original of your stipulation is substituted in lieu of the exhibit as it was originally offered.

MR. SPRECHER: Mr. President, I am not quite sure. Is there any need of that stipulation being an exhibit, in view of the fact that an order has been placed upon it as a part of a motion?

THE PRESIDENT: I think we might relieve the administrative staff of the responsibility of processing it, because we did write the specific order, and we all have copies of the orders in our files, and it is part of the record, so there will be no confusion about it, whether it is distributed to the Tribunal or not.

DR. NATH: (for Kuehne): Mr. President, in Kuehne Document Book No. I, we submitted Kuehne Exhibit No. 2, which contains two letters and which was accepted only for identification when presented. The author of this document had not certified these letters. That author was Mr. Lee, an American. The Tribunal permitted me to hand in the certificate subsequently and yesterday I received the sworn affidavit of this man from America, and I ask that I now be permitted to hand this document to the Secretary-General, and I move that at this time Exhibit Kuehne No. 2 be admitted into evidence, not only for identification.

THE PRESIDENT: Is there any objection to the motion by the Prosecution?

MR. SPRECHER: Of course, I don't challenge the fact that Dr. Nath has this affidavit. I don't recall the substance, but I am sure from our previous arguments, Your Honors will know what are our views with respect to its weight. Apart from that, we have no objection.

THE PRESIDENT: Very well, then the Kuehne Document No. 2 marked Exhibit No. 2 is now received in evidence, and counsel for the defendant is directed to furnish the Secretary-General with the proper authenticated document.

DR. EISEMANN (for Lautenschlaeger): Mr. President, I regret that I have to speak once more about the motion of the Defense of 18 May, in which we moved that Prosecution's Exhibit 2260, NI-9824, not be accepted. If this motion was not granted, we asked permission that an affidavit of Professor Bieling be handed in at a later time for Lautenschlaeger. Now that affidavit was already attached to the motion. In the meantime, the Tribunal has not granted the motion; in other words, Exhibit 2260 has been received in evidence. Therefore I ask that you know rule about our second motion and permit me now to offer into evidence the affidavit of Professor Bieling and hand to the Secretary-General.

May I give you the reasons once more?

Exhibit 2260 was put to the witness, Professor Bieling, during his first examination in January 1947, but the Defense has not gone into this document up to this time because the Prosecution did not offer it into evidence; since the document has now been offered into evidence in rebuttal, I think it would be faire to permit us to hand in an affidavit by the affiant which is an explanation about the document, a copy of his own letter.

THE PRESIDENT: What says the Prosecution?

MR. MINSKOFF: If it please the Tribunal, it is difficult to understand why the Defense would withhold an explanation of an extremely vital point in the case until the Prosecution brings an exhibit before the Tribunal. What is involved here is a letter, a contemporaneous document, which is offered instead of the cross examination of Weber. Now, this letter is addressed to Weber. Weber, in his affidavit, which is now in evidence for the Defense, has stated he did not know anything about artificial infection. This letter clearly indicates that he did know about artificial infection. At this late stage in the game, to have the Defense bring another affidavit in of the author of the letter and to try to explain what it plainly says is difficult to understand from the point of the Prosecution.

DR. EISENMANN: Mr. President, May I make an additional statement? In his reply, Dr. Pribilla informed the Tribunal that he was not told what documents were concerned if the Weber cross examination was waived; in other words, he did not know what was contained in this document 2260, nor do I. The second point seems to be that from this document it actually cannot be seen that Dr. Weber knew anything about artificial infection, because there is nothing contained in the letter about it in my opinion. The third aspect is this: the author of the letter, Professor Bieling, himself would be the person best able to explain the contents, certainly better than Dr. Weber if shown this letter in cross examination.

THE PRESIDENT: May I ask you, counsel, do you have an English copy of that proposed exhibit of yours in hand now?

DR. EISENMANN: I have it in the original, Mr. president, but no translation. It is a short affidavit of two pages. It has four paragraphs.

MR. MINSKOFF: May I just suggest this: both the author of this letter and the person who received it have given affidavits for the Defense. Neither one has chosen to explain what the letter meant until now that it has been offered in evidence. If it had been offered before during cross examination of Weber, all the defense attorney could have done at that time is object to its competency, relevancy, and materiality; and there is no opportunity, if it came through a normal course, to now bring an affidavit explaining what the letter means, particularly if it doesn't mean anything he as now says it does.

THE PRESIDENT: Counsel for the Defense, do you have an English translation in your office, or can you readily get hold of an English copy of this affidavit?

DR. EISENMANN: Mr. President, I believe that an English translation is before Your Honors, because I appended the affidavit to my motion, and I assume that the affidavit was translated at the time.

THE PRESIDENT: You are entirely correct about that, but when we ruled

1 June-M-FL-4-3-Gaylord (Int. Katz)
Court No. VI, Case VI

on the motion with respect to Exhibit 2260 we treated the matter as a closed matter, and the files were sent to the archives. I shall take it upon myself to send for those files, and at the recess we will give some consideration to it. We'd like to look again at the affidavit to see what the contents of it are, and some time during the day we will rule on the matter.

DR. EISENMANN: Thank you very much.

DR. HELMUT DIX (for Schneider): On direct examination the defendant Schneider testified that the obligation to testify which existed by reason of a Military Government decree caused him to make out his affidavits. Because of this fact, I now move to have these affidavits stricken from the record, and I am handing an English copy of my motion to the Secretary General. I have a few other copies.

THE PRESIDENT: Mr. Secretary-General will you see that that motion reaches us at the recess?

In that connection, Dr. Dix, you will pardon an interruption. I may say that we have three motions that were filed on yesterday by Dr. Siemers, relating to features of this same problem. Late in the afternoon we had the motions translated and much later, at night, obtained the Prosecution's answer to the motions. The Tribunal has not had an opportunity to confer with respect to those matters, but we will consider your matter, Dr. Dix, and the one presented by Dr. Siemers together, and some time during the course of the day, at a time which we will announce before we recess, we will take those subjects up and dispose of them.

Are there any other matters from counsel for any of the defendants now, before we take a short recess?

DR. SIEMERS: Mr. President, I have a small matter to bring up in regard to one document. In my Document Book No. 10, which I offered on 11 May 1948, there was one Document 218, an affidavit of Ludwigs. I offered that document as Exhibit 218 and it was accepted. Subsequently it turned

out that I offered this document by mistake. I had not yet received it, and the Secretary General was kind enough to point out to me that this document was missing. Therefore, I withdrew it on 11 May. In the meantime I have received it, I have submitted it to the Secretary-General, and I now want to make the formal offer to the Tribunal.

THE PRESIDENT: What is your document number?

DR. SIEMERS: It's an affidavit of Ludwigs, only one-half page in length, and dealing only with the oxygen plant in Lorraine and what Dr. von Schnitzler's activity was.

DR. SPRECHER: May I ask the present date of the affidavit of Ludwigs, whether or not the affidavit of Ludwigs now being offered is the same as an affidavit of Ludwigs which was previously offered, if there was any such affidavit in existence at that time.

DR. SIEMERS: No, I had not yet received it on that day. I was expecting it, and it reached me too late. That was the reason why I withdrew it at the time. I received it on the 24th of 25th — no, I received it approximately a week later.

THE PRESIDENT: As I understand the record, you offered it, and then you withdrew it because you had not received it, and now you are reoffering it; and it all relates to the same document.

DR. SIEMERS: Yes, your Honor.

MR. SPRECHER: Mr. President, this is not a contemporaneous document; this is an affidavit. As I understand Dr. Siemers his present statement is that he offered an affidavit which he had not even seen.

THE PRESIDENT: Well, we permitted that, Mr. Sprecher that, he says, occurred on 11 May; that was the day before we recessed, and we were permitting counsel for both sides to indulge in some rather loose practice here of identifying and offering documents that had not been processed or were not immediately available. If this matter is as Dr. Siemers states

it, that he offered it at that time thinking he would have it and didn't obtain it and has now received it, it wouldn't be unreasonable, it seems to us, unless you have some substantive objection to the document.

MR. SPRECHER: Well, it's only another example of many which I will refer to shortly, where we haven't even yet received translations of some of the late documentation, particularly affiant material, offered by the Defense in the very late stages of the case. Now, my point, Mr. President, was that our understanding was that documents which were available physically in the courtroom but which hadn't been translated or processed could be offered, but to offer a document which is in the process of being made, not yet made or received, seems to us a very strange procedure, and we certainly didn't know about that. My question was whether or not this is the same affidavit which Dr. Siemers claims he was offering on the 11th.

THE PRESIDENT: As I understand it, Dr. Siemers has said he did not have the affidavit on the 11th. He was anticipating its receipt and offered it, and then withdrew it because he did not get it by the time we recessed, and he now has the affidavit.

DR. SIEMERS: Mr. President, on the basis of a letter that I had received I could assume with certainty that I would receive it in time; that's why I incorporated it in the index of my Document Book X. It didn't arrive, and I withdrew it, but subsequently it did arrive, with a letter from Mr. Ludwigs excusing himself because he was sick and could not go to the Notary Public, which caused the delay. That's the only case in which I defaulted here, where I offered something that I had not yet received.

THE PRESIDENT: Under the peculiar circumstances of this case, Dr. Siemers, we will permit you to reoffer your Document 213 as your Exhibit 218. We're not unmindful of the fact that we did draw a line within which expected all documentary material to be submitted, and we liberalized that ruling to the extent of permitting counsel to mark and introduce documents that had not been processed. It was not the purpose of the Tribunal at the time that ruling was made to permit the introduction in that manner of documents that did not exist, but in view of the fact that you apparently in good faith did anticipate the arrival of the document in time and included it in the index of your document book, we will permit it to go in evidence, and it is now in evidence.

DR. SIEMERS: Thank you. I want to offer the Ludwigs affidavit, Document 213, as Exhibit 218. It is not contained in Book 13, which has been in the Translation Department for several days.

THE PRESIDENT: Exhibit 218 is received in evidence.

Anything further from Counsel for the Defendants before we take a short recess?

DR. HUDOLF DIX: Mr. President, on behalf of the Defense, so

that they can arrange their time schedule, may I ask Your Honors at this time whether you intend to sit next Monday, which is an American holiday?

THE PRESIDENT: Don't allow Counsel for the Defense to embarrass you, Mr. Prosecutor. We were at a little loss ourselves to know what sort of a holiday it was. I may say, as presently advised, we do expect to sit next Monday. We will sit.

DR. DIX: Mr. President, as Defense Counsel for Schmitz I want to raise another matter. Your Honors know how difficult it is to obtain documents from foreign countries. Last night my colleague Gierlichs received two affidavits from Paris, in the French language, by representatives of the French nitrogen industry, both of whom were members of the International Nitrogen Convention. I was able to check these two affidavits only five minutes ago. It's an unusual request, but in my opinion it is justified, in view of the emergency in which the Defense finds itself in procuring foreign documents. I therefore ask the Tribunal to accept these two documents in the French language before the official closing of the evidence. I can turn them over to the Secretary General in the French language, now, to be translated, or I can withhold them and see to it that they are translated, if they are accepted. The contents...

THE PRESIDENT: Dr. Dix, the Tribunal just cannot permit that to be done. If we allowed you to offer these affidavits, we would necessarily be required to accord counsel for the Prosecution an opportunity to cross examine the authors of the affidavits or perhaps to file counteraffidavits, and that would just prolong this trial indefinitely. We have no doubt but what many, if not all of your gentlemen, if accorded an unlimited amount of time, could produce very, very much more evidence of this character. The same is no doubt true of the Prosecution. But this Tribunal is required, under the Charter under which it operates, to conduct this trial in a speedy and expeditious manner. Incident to that, it was necessary for us to fix a terminal date for the

introduction of evidence. We think that we have perhaps indulged a good deal of liberality with your immediate predecessor who was just before us a moment ago under rather peculiar circumstances, but we are required right now to determine to close this evidence or to leave it open, and under the circumstances we regret to say we shall have to deny your application.

DR. DIX: Mr. President, I quite understand your ruling, but I hope you will also understand the attempt I made to introduce the documents nevertheless.

MR. SPRECHER: Mr. President, we have just one matter perhaps before you go into recess. This matter we raise with respect to making any specific motions concerning Defense exhibits offered later in the case, particularly during the last week of the trial proper and particularly concerning many affidavits offered during that time. The Tribunal granted the prosecution a reasonable time in which to make specific objections. However, in all cases we have not actually yet procured English translations. More important, our lawyers and other staff have been unusually preoccupied on the briefs and a very large number of collateral matters which Defense Counsel have raised during the very late stages of this trial, and our time has been more than taken up. Therefore, any motion we would now make with respect to specific exhibits offered in the late stages of the trial would be incomplete and would really scarcely show the situation in which we find ourselves. Moreover, we feel that our position with respect to the competency and relevancy and the weight to be given to most, if not all, of this defense documentation has been clearly indicated by earlier motions, so that any further motion at this time would not really be of great assistance to the Tribunal or really indicate more clearly our position on the record. In view of this general situation, we will rely upon both our general and specific arguments previously advanced by the Prosecution to indicate to the Tribunal our view on the relevancy and the weight to

be given to this later Defense documentation.

THE PRESIDENT: I presume, under the American practice, you would denominate that observation a plea of confession and avoidance, but we can well understand, Mr. Prosecutor, that you wish us to bear in mind that you have not acquiesced or waived any rights insofar as the consideration goes of this material, and the Tribunal will of necessity indulge the same with respect to Counsel for the Prosecution as we must the Defense, by bearing in mind that all of you gentlemen have worked under very great pressure and that you perhaps could and would have done many things if you had had sufficient time to do it.

Now, may I once more inquire if there are any other motions or observations to be offered on behalf of Counsel for the Defendants or the Prosecution before we recess?

The Tribunal has in mind that it does have Dr. Siemer's motion and the one filed by Dr. Dix a little while ago. We think perhaps that it would be as well if the Tribunal rose now in recess until 1:30, in order to give us an opportunity to consider those matters. In the meanwhile, Dr. Dix, if you will come in with Counsel for the Prosecution and such of your associates as you wish to talk to us about the matter that you mentioned this morning, we'll hear you.

The Tribunal will now rise until 1:30.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 1 June, 1948.)

THE MARSHAL: The Tribunal is again in session.

DR. NEITE (Defense Counsel for defendant Hoerlein): Your Honor, I beg your indulgence for asking for your attention once more. Only this morning, during the recess, I had an opportunity to look at the documents which are in Exhibit 2262 of the prosecution. This is an affidavit of an employee of the prosecution, Mr. Ungar, which has been submitted as rebuttal document in the case of Duerrfeld. Mr. Ungar, in this connection, gives us a collective report on a large number of documents. What I have in my hand is only one part of this collective report. In looking through these documents, I have found that Mr. Ungar's summary is in contradiction with the material on which he reports in many instances. Since these documents themselves are not in evidence, it is important to point this matter out to you. Above all, I must state that Mr. Ungar is fully conversant with the German language; that Mr. Ungar is working in the staff of Mr. Minskoff and, consequently, he is also informed of the significance of the words. A mere interpreter or translator may perhaps not know how, in the individual case, the word Versuch is to be translated, but Mr. Ungar must of course be fully informed of it. Now, Mr. Ungar, in his affidavit, NI 15299, Exhibit 2262, under figure 4, paragraph 3 states, and I quote: "A report of the 29th of January 1943 speaks of the transport of 80 inmates suffering from typhus, and 2 inmates as 'experimental typhus cases'". Since this is merely a summary, the matters to which he refers must be in accordance with the original. In the original report it is stated with reference to two inmates to be transported "typhus Versuch cases" or typhus experimental or test cases. Since Mr. Ungar, as I said before, is fully conversant with the German language and is also fully informed of the conflicts of opinion between the prosecution and the defense as far as this point is concerned, the formulation of "experimental typhus cases" can no longer be an accident and can no longer be considered as an

accidental translation mistake. The words have been used in full cognizance of their significance. That this is so also becomes apparent from the fact that in the very same affidavit of Mr. Ungar, under paragraph 3, there is a compilation of the inmates, subdivided as to their individual diseases. At the end, the word "typhus" is also used. Behind that word Mr. Ungar, the analyst who has deposed an affidavit about that matter, put "(inclusive of experiments)".

Gentlemen, I ask that this document be not admitted as far as the translation is concerned to which I just objected, and that Figure 4, paragraph 3, and the remark in parentheses "inclusive of experiments" be stricken from that document.

Finally, I must also point out that Mr. Ungar certified to his own affidavit. I believe this is also not in line with the rules which are valid for the certification of affidavits.

THE PRESIDENT: Dr. Nelte, since it is quite apparent that there can be no agreement between counsel for the defense and counsel for the prosecution with reference to the matter of translation to which you have referred, the Tribunal is hardly in position to dictate to an affiant the translation he wishes to utilize for his own purposes. I think I can assure . . . gentlemen that the Tribunal is well aware of the problem that has arisen with reference to the proper and appropriate translation of this German word in the context in which it appears in exhibits and documents from place to place. We must overrule your motion to strike out the parts of the document to which you have referred. It would be taking a liberty for the Tribunal to make the document say something different than the affiant had said when he made it. However, as in the matters referred to this morning, the Tribunal will assume the responsibility of keeping in mind the difference in viewpoints that you gentlemen have with respect to this matter of translation and will apply it in this instance as well as in the other instances to which reference was made this morning. It will not go unnoticed and if it becomes necessary for us to make our own determination

as to what the translation should be, we shall undertake to do that in the light of all the information that has been given here on the witness stand and otherwise and in the light of our own inquiry as to what the translation should be in the particular instances. Your motion will be overruled with those observations as in the matter referred to this morning.

DR. NEITE: One more question, Your Honor. Since the documents upon which the affidavit is based are not in evidence, I should like to ask the Tribunal how the Tribunal will be able to check the correctness of my remarks to the effect that Dr. Ungar's report is incorrect?

THE PRESIDENT: I may be wrong about that but I was under the impression that these documents upon which Dr. Ungar's statement was formulated were in evidence or, at least, were in the files of the Secretary General. Now, if you wish to make those available to the Tribunal by placing them in evidence or placing them in the files of the Secretary General so that we can test the matter of the translation if it becomes necessary to do so, I can see no objection to that.

MR. SPRECHER: The documents are not in evidence and they have been available since the time this offer was made a long number of days ago. We certainly have no objection to having indications of what the record show put forward, but it seems to us that this really amounts to nothing more than a final speech concerning the word Versuch, as Dr. Nelte said, and since that is the sole question involved, I don't think repeating the word Versuch as taken from all these documents would help us one single bit.

THE PRESIDENT: Perhaps this would be the solution for the matter. Let me suggest that these original documents be put in the files of the Secretary as supplementing the exhibit with the understanding that they need not be translated or processed. If the Tribunal then has any necessity to consult the original documents, they will be available, and manifestly, a translation of them would not serve our purpose anyway because if they were translated, we would then be back in the trouble we're in now. We'd have somebody's translation and that might well change it. May we stipulate between you gentlemen that these original documents, upon which the Unger statements were based, be made a part of the files of this trial, without processing them, with the understanding that they will be available to the Tribunal if it becomes necessary to consult them? Is that agreeable to you, Dr. Nelte?

DR. NELTE: I am in full agreement with that. In agreement with the prosecution, I consider these documents as an annex to a motion which I just put to you orally and which I shall hand in in writing also to the files of the Tribunal.

THE PRESIDENT: Very well. Is that agreeable to the prosecution?

MR. SPRECHER: Yes, it is, Your Honor.

THE PRESIDENT: Then that disposes of that matter.

MR. SPRECHER: Mr. President, I only wanted to say, is there any necessity of having anything more in writing by Dr. Nelte on this point? It seems to us anyway that we have had lots of writing lately and this

is one place where we can all forebear.

THE PRESIDENT: If Dr. Nelte supplements his oral motion which has now been ruled upon, it will be necessary to make a formal order to make the ruling conform to the one here announced. It is unnecessary, but if he desires to submit it, we'll make the order and it will be in accordance with the ruling here made. There's no harm in it.

DR. SEIDL (Defense Counsel for defendant Duerrfeld): Your Honor, I should like to add a few sentences to what Dr. Hoerlein's defense counsel has said. Already some time ago I have objected against Document 2262 on behalf of the defendant Duerrfeld. I should like to add that within that short period of time we were unable to look through a rebuttal document which comprises more than 1,000 pages. For that reason, in our closing brief, we shall have to confine ourselves to making a few explanations which we came across on the basis of a few spot checks, but I should like to state for the record here that in Dr. Ungar's affidavit, expressions are used which so far we have not been able to discover in these over a thousand pages of rebuttal documents. I ask that in evaluating the probative value of this document to take into consideration that in view of the lack of time we were absolutely unable to acquaint ourselves with the contents of these documents.

THE PRESIDENT: Very well, Dr. Seidl.

Now, are there any other matters to be called to the attention of the Tribunal before we proceed to close the record on the motions that are pending before the Tribunal.

DR. RUDOLF DIX: I should like to present something to you which I suspected this morning but I wasn't sufficiently informed of it then in order to communicate it to you as a fact. In earlier trials already it happened to me that the exact contrary was found in the translation of my final plea than what I actually intended to say. Although fourteen days already before the date fixed I filed my final argument for translation, I received it back only this noon, and as far as I am concerned

I was in a position to check the translation very superficially only today. Similar complaints have reached me from my colleagues and there is only one case which I might bring to your attention. In the final plea of my colleague Dr. Boettcher it is stated in the German text: "The attention of the Tribunal must be directed to the fact that at the outbreak of the war supplies were only available to an extent which could in any way cover the needs of armaments in the eventualities of a war." The English translation reads: "The attention of the Tribunal should be called to the fact that at the outbreak of war there were only enough supplies to meet the armament requirements for a war."

DR. GIERLICH: I think that what Dr. Dix just said wasn't quite comprehensible to the Tribunal because the translation of the German text was again in accordance with the translation made by the Translation Department.

THE PRESIDENT: Dr. Gierlich, may I suggest this, that the matter of making corrections on material in arguments and in briefs is quite different from that pertaining to documents by which, of course, we are all bound and required to accept for what they are and what they say. I take it that counsel, in arguing a case, is entitled to have the translation say what he wants it to say. It isn't a matter of translating a document emanating from some other person and, consequently, if you and any of your associates find that the English translation of your arguments and your briefs do not comport with what you want said to the Tribunal, if you will give us a memorandum, informally - send it to our offices, four copies, and give the prosecution also a copy, we will pin it to your arguments and we'll make the arguments conform to your ideas of what you want to say.

MR. SPRECHER: Mr. President, I have looked at the proposed translation and I have looked at the proposed German and the later translation proposed by the defense is just not even grammatical and I only point that out with due respect to what I think has been a very fine

translation staff in this trial and also to indicate the possibilities that several people can make slight errors about translations.

THE PRESIDENT: I repeat on behalf of the Tribunal what I said before, that when it comes to making arguments or submitting briefs that counsel that submits that material is entitled to have the English say what he wishes it to say to the Tribunal. He and he alone is responsible for what he puts in his arguments and what he puts in his briefs, and if he discovers that a translations does not say what he wants said, he may make his own corrections and submit it to us and we will append it to his English copy of the material that is furnished to us, so that he may have the benefit of having said to the Tribunal what he wishes to have said, in the manner he wishes it said. That's entirely different and apart from the case of the disputed translation of a document which is just what it is and is some times the subject of much controversy.

DR. DIX: One more word. I may assume that this memorandum will be submitted after we have held our final argument. I don't think that I will be able to check the translations until tomorrow and, at the same time, give you the memorandum. All of us are far too busy to do that in that short period of time.

THE PRESIDENT: You may do that just whenever you wish, Dr. Dix, providing you do not further burden the translation and mimeographing staff by sending it through in that manner. They will have a mountain of material now. Just see that we receive in English what you think the translation should be. See that the prosecution is furnished a copy of it and see that we have four copies and it will serve the purpose, and you may do it any time up until the announcement of the Judgment.

DR. DIX: One more thin. I should merely like to express the wish to the interpreters that tomorrow they do not entirely rely upon the English text which is before them but, if possible, actually listen to

what is being said. That here the contrary is being said of what I intend to say is beyond any doubt. In the English translation something incriminating is contained and in the German text something is contained which is in favor of the defense. I don't want to discuss in open court with Mr. Sprecher how good the translation is. Perhaps, privately we will be able to do that when we will be able to express our opinion more freely.

THE PRESIDENT: Very well. Very well, gentlemen.

Dr. Hoffman?

DR. HOFFMANN (Defense Counsel for defendants Ambros and von der Heyde): Your Honor, I should merely like to add a few words with respect to the deadline which has been fixed for filing our final briefs. So far, I don't consider that particular date has been given to us as absolutely final but only a period to which counsel should have to adhere in order not to delay the expeditious process of this trial and the Judgement. It was my opinion that two or three days would not matter too much and would not mean that the trial brief would not at all be accepted. I don't know whether this morning any inquiry was made as to the time limit when the prosecution will file their trial brief. If such an inquiry has been made and if the prosecution, too, has been told that their briefs would not be received if they are filed later than the prescribed date, then my opinion deviates from that. It is my point of view that the prosecution should not be allowed to look into my trial brief in the same way as I don't expect to look at the prosecution's trial brief. I should like to ask the Tribunal whether that period of time means that the briefs will not be accepted at all, or whether it is merely a reasonable period fixed for an expeditious trial?

THE PRESIDENT: May I say that in the first instance the Tribunal fixed a time for the submission of trial briefs with the thought that it would perhaps avoid delay and, in any event, lessen the very tremendous burden that is placed on the processing staff. Later, the question

arose as to the confidential character of briefs and argumentative material and we concluded also that the order that we had fixed was reasonable, if not necessary, in order to insure that right and privilege of the confidential nature of this material. The rule did not does apply alike to prosecution and defense. Perhaps you were not in the room this morning, Dr. Hoffmann, but I think the prosecution announced on the record that they would tomorrow file their briefs. The Tribunal would be very very reluctant to say that it would not consider briefs that, for some reason other than merely dilatory tactics, had not been filed within time and the Tribunal would be disposed, upon a proper showing of an emergency, to grant concessions insofar as it can be done with consistence and with regard to the treatment accorded the other members of counsel. The rule applies alike to all concerned. The Tribunal would not want to say that it would close its ears to hearing a brief presented on behalf of a defendant because his counsel, for some reason, had not gotten the brief in on time, but we cannot, in the interests of fair treatment and consistence, adopt a rule that does not apply to all you gentlemen alike. If any problems arise of something that is beyond our control, if you will come to us with a representative of the opposition, we will try to work it out as best we can under the circumstances in order to give a full opportunity in order to present your views to the Tribunal. That's all I can say at this time.

Is there anything else, gentlemen, before we announce these rulings? Then, we shall proceed to do that.

May I say first that there are pending three motions that have never been formally disposed of although we have indicated to counsel that were concerned in those matters that they would be passed over until the final determination of the case. We propose to issue formal orders so stating with respect to the motion for a finding of Not Guilty as to Counts One and Five, which was filed by Dr. von Metzler on behalf of most of the defendants on the 17th of December. Also, on the motion

filed by Dr. Lummert on behalf of the defendant Kuchne dated December 11, along with a supplemental motion filed on the 8th of January. There will be the same order entered with respect to the motion filed on behalf of a large number of the defendants on the 7th of May by Dr. Dix. To further identify that motion, I will say that it really constitutes several motions: 1. A motion to dismiss this cause for want of jurisdiction. 2. A motion to dismiss for failure to properly prepare, refer or investigate the charges. 3. A motion to dismiss for defects appearing on the fact of the indictment. 4. A motion to dismiss for failure of the indictment to allege an offense cognizable by the Tribunal. 5. A motion to dismiss for lack of jurisdiction of the persons of defendants. 6. A motion for a mistrial and to dismiss the charges, and seventh, a motion to strike certain allegations contained in the indictment. As to all of those motions there will be no ruling in advance of the final judgment and the Tribunal will take those motions into consideration in determining what its final judgment should be. Formal orders reciting those facts will be filed in the office of the Secretary General.

Now, on the oral motion made by Dr. Eisemann on behalf of himself and Dr. Fribilla as counsel for Lautenschlaeger this forenoon, if Dr. Eisemann will advise the Tribunal of the document and exhibit number of the affidavit of Dr. Bieling, that affidavit will be admitted in evidence and the issues in that regard will be considered closed by the Tribunal. Can you give us the document and exhibit number now, Dr. Eisemann?

DR. EISEMANN: On the basis of the decision just pronounced by the Tribunal, I am submitting the Bieling affidavit dated 15 May 1948 as Lautenschlaeger Document 72 with Exhibit No. 70.

THE PRESIDENT: That exhibit is in evidence.

The motion filed this forenoon by Dr. Hellmut Dix on behalf of the defendant Schneider, entitled, "A Motion for the Striking of the Affidavits of the Defendant Schneider," prosecution exhibits 917, 1328, 1329, 1333 and 1418, is now overruled by the Tribunal.

Yesterday, as was mentioned this forenoon, Dr. Siemers filed three motions. All three of these motions bear date of May -- you may strike that; one of them doesn't bear a date.

On the motion to admit the affidavit submitted to the Tribunal made by Dr. Max Ilgner, entered as Schnitzler Document 226 and offered as Schnitzler Exhibit 224, the affidavit is admitted in evidence.

The Tribunal now reaffirms its ruling made at the beginning of this case, namely, on the 30th of August 1947, with reference to the exclusion of affidavits made in 1947 by reason of an attempt to show duress in 1945 and 1946. The Tribunal will stand on the ruling made then and the ruling is now the ruling of the Tribunal.

On the motion filed by Dr. Siemers on the 29th of May 1948 with respect to Schnitzler Document No. 228, being a transcript of the interrogation of Frederick Gauss by Dr. Kempner and Mr. Beauvais on the 6th of March 1947 and the 11th of August 1947, the document is excluded from evidence. It is not admitted.

On Schnitzler Document 229, being an interrogation of Eberhard von Thadden on the 3rd of March 1948 in the proceedings against Weizsaecker et al, American Military Tribunal IV in Case XI, that document is excluded from evidence.

On Schnitzler Document 230, being the affidavit of Werner von Hoven of 17 March 1948 concerning the interrogation of Mr. Josif Marcu, Jr., and Mr. Emil L. Tislowitz, members of the Nurnberg prosecution staff, that document is likewise excluded from evidence.

The Tribunal now admits in evidence the affidavit of Lilly von Schnitzler which was previously offered as Schnitzler Document No. 27 and marked for identification as Schnitzler Exhibit No. 30 and found in Schnitzler Document Book II; and that document is now admitted in evidence as Schnitzler Exhibit 30.

The Tribunal rejects and will not admit into evidence the supplemental and additional evidence of Lilly von Schnitzler dated 26 May 1948 and offered by Dr. Siemers as Schnitzler Document 227 which he asked to have made Exhibit No. 225. I may say that it is the view of the Tribunal that that document served its purpose when we admitted the document previously referred to, the Lilly von Schnitzler affidavit, Exhibit 30.

The Tribunal now overrules the motion of the prosecution filed today entitled, "Motions Concerning Certain Outstanding Matters in Answer to Three Motions on Behalf of the Defendant von Schnitzler."

The Tribunal will treat as withdrawn the Wolffsohn affidavit. For the sake of the record I wish someone would give me now the document and exhibit number of that document so that we can positively identify it on the record.

DR. SIEMERS: Your Honor, this is Prosecution Document NI-15266, Exhibit 2236, in Book 94.

THE PRESIDENT: Document 1526, Prosecution's Exhibit 2236, is now stricken from the evidence. In that connection the oral testimony

of the witness Wolffsohn will remain in the evidence but the Tribunal will consider as stricken all references in that oral testimony concerning the events occurring in the years 1945 and 1946.

MR. SPRECHER: Mr. President, there are two matters which we either aren't clear about or which we wish to raise for some other reason. You stated, as we understood you, that you overruled the prosecution's motion which was Dr. Siemers made and yet parts of that motion, it seemed to me, had actually been granted by some of your prior rulings. That is the first point.

THE PRESIDENT: In that connection you are perhaps correct about that, Mr. Sprecher, because in ruling on the motions of Dr. Siemers we considered it unnecessary to rule on some of the matters raised in your motion. May I say that the reason why we overruled your motion is because of the latter part of it in which you asked that, in the event certain of the evidence offered by Dr. Siemers be admitted in evidence, that you be permitted to make certain showing.

The Tribunal is going to treat this incident as closed with these rulings and that is the reason for the formal overruling of your motion. It is both a motion and an answer and we have overruled it upon the theory that we were not going to permit the introduction of any further evidence on the matters referred to in the affidavit of Dr. Ilgner.

MR. SPRECHER: Now, secondly, as I understood the prosecution's offer to withdraw the Wolffsohn affidavit and as I understood the understanding with the Tribunal from the "in chambers" discussion, the testimony of the defendant Haefliger concerning the years 1945 and 1946 was likewise to fall, as well as the Wolffsohn affidavit and his cross examination concerning 1945 and 1946.

I realize that it would be difficult to edit the record completely in that connection but we would consider that the record stood in a highly prejudicial manner to the prosecution on the basis of these recent developments if the entire understanding, as we at least had it

in mind, was not honored in that regard. I don't know if there has been some confusion but that is certainly our understanding, that this whole issue ~~was~~ not to be resolved by Dr. Siemers' in effect getting in what we believe he had attempted to get in for a long, long time and over our objection, even after we withdrew what we considered was the only possible affidavit which gave him any grounds at this late stage for making the profer that he made, because of any error on the part of the prosecution in proffering evidence which might reopen an old issue which the Tribunal had previously settled.

THE PRESIDENT: As the prosecution has well suggested, we do not want to have to take the time now to go through the evidence here of the testimony of Mr. Haeffliger and try to eliminate part by part the items that, in the view of the Tribunal, might be properly stricken out.

The Tribunal takes a view that it has clearly expressed its thought that it does not consider these incidents occurring in 1945 and 1946 as affecting the admissibility of the 1947 exhibits upon the theory that they are too remote to the time when the 1947 exhibits upon the theory that they are too remote to the time when the 1947 exhibits were executed and counsel can rest assured that the Tribunal, after having so ruled, is not going to burden itself with these 1945 and 1946 events.

I thought that I had made a memorandum at the time of our informal conference of all of the things that we had agreed upon and I do not find in that memorandum any reference to the Haeffliger examination although I do well remember that there was some mention, some discussion, of it.

It seems to me that the general ruling of the Tribunal, that it considers these incidents occurring in 1945 as remote to the 1947 affidavit, is sufficient within itself to protect the record here as to what this Tribunal is going to consider concerning the affidavits that it has admitted in evidence.

Do you have something to say, Dr. Siemers?

DR. SIEMERS: Your Honor, I should merely like to refer to one point with reference to what Mr. Sprecher has said. From a purely procedural point of view, and the Haeffliger examination was approved to me at the time when the witness Wolffsohn had not yet been cross examined. I had requested three further witnesses irrespective of that matter and that was discussed in chambers. At that time I had to agree with the Tribunal that I could no longer ask for these three

witnesses after the Wolffsohn document had been rejected as rebuttal documents. That is how I remember it. I merely want to make that statement; otherwise, I am in complete agreement.

THE PRESIDENT: Just one thing further; in ruling on these motions of Dr. Siemers I omitted to say that his motion to strike from the evidence the exhibits consisting of statements of Dr. von Schnitzler which were offered by the prosecution and which are enumerated in his motion is likewise overruled. The Tribunal will not strike those affidavits from the evidence.

Now, gentlemen, so far as we are advised, that takes care of all outstanding matters that are now pending before the Tribunal and all that remains now is for the argument to begin in the morning at nine o'clock.

Just one thing may I say to all of you? It is going to be very necessary for us to keep a close schedule and not to consume time with other matters while these arguments are in progress. If any matter arises that any member of counsel feels it necessary to call to the attention of the court, may I request that you do that first informally by coming to us in chambers. Perhaps we can obviate the necessity of consuming any time in the courtroom which should be allotted to counsel for their arguments.

Unless there is something further to be said to the Tribunal we are about, gentlemen, to recess until tomorrow morning at nine o'clock to begin the arguments in this case.

Just a moment, please.

Is there anything further? Then the Tribunal will rise until nine o'clock tomorrow morning at which time we will proceed with the argument.

THE MARSHAL: The Tribunal will recess until tomorrow morning at nine o'clock.

(The Tribunal adjourned until 0900 hours 2 June 1948.)

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